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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

3 In re:

4 PLATINUM-BEECHWOOD LITIGATION 18 Civ. 06658 (JSR)

5 -----x

6 MARTIN TROTT and CHRISTOPHER 18 Civ. 10936 (JSR)  
7 SMITH, as Joint Official  
8 Liquidators and Foreign  
9 Representatives of PLATINUM  
10 PARTNERS VALUE ARBITRAGE FUND LP  
(in Official Liquidation) and  
11 PLATINUM PARTNERS VALUE ARBITRAGE  
12 FUND LP (in Official Liquidation)

13 Plaintiffs,

14 v.

15 PLATINUM MANAGEMENT (NY) LLC,  
16 et al.,

17 Defendants.

18 -----x Trial

19 New York, N.Y.

20 December 12, 2022  
21 10:25 a.m.

22 Before:

23 HON. JED S. RAKOFF,

24 District Judge  
25 and a Jury

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## APPEARANCES

HOLLAND & KNIGHT, LLP  
Attorneys for Plaintiffs

BY: WARREN E. GLUCK  
MARTIN L. SEIDEL  
RICHARD A. BIXTER JR.  
QIAN (SHEILA) SHEN  
NOAH W.S. PARSON  
ELLIOT A. MAGRUDER

KATTEN MUCHIN ROSENMAN, LLP  
Attorneys for Defendant Bodner  
BY: ELIOT LAUER  
GABRIEL HERTZBERG  
JULIA B. MOSSE

CURTIS, MALLET-PREVOST, COLT & MOSLE, LLP  
Attorneys for Defendant Bodner  
BY: NATHANIEL C. AMENT-STONE  
ALLESANDRA TYLER

Also Present:

Michael Robson, Paradocs Motion Support  
Esterah Brown, Paralegal, Curtis Mallet

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(Trial resumed; jury not present)

THE COURT: Let's get Mr. Quintero in.

MR. LAUER: Change of plan. We will continue with Mr. Bodner because he has a grandson's *bris* tomorrow and he may be delayed.

THE COURT: Very good.

Thank you for your papers. I will give you my rulings at the first break.

Mr. Bodner, come on up.

My recollection is you have got about two hours more.

(Continued on next page)

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Bodner - Direct

1 (Jury present)

2 THE COURT: Please be seated.

3 Good morning, ladies and gentlemen. Thank you for  
4 your promptness. I am sorry for the delay this morning. I had  
5 a medical appointment and you will be very surprised to hear  
6 that my doctor was running a half hour late. That never  
7 happens.

8 But, in any event, we are still on schedule and we are  
9 going to continue with Mr. Bodner's testimony and then we will  
10 come back to Mr. Quintero after that.

11 Go ahead.

12 DAVID BODNER, previously affirmed, resumed.

13 DIRECT EXAMINATION

14 BY MR. LAUER:

15 Q. Good morning, Mr. Bodner.

16 A. Good morning.

17 Q. When we left off, you were about to discuss the move of  
18 PPVA.

19 Did there come a time when Mr. Nordlicht and the PPVA  
20 side of the Platinum Management business moved downstairs in  
21 the building to the 4th floor?

22 A. There came a time.

23 Q. Do you recall approximately when that was?

24 A. I think it was in approximately 2007.

25 Q. And what was left on the 54th floor?

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Bodner - Direct

1 A. What was left on the 54th floor were the employees of  
2 Centurion.

3 Q. Who headed Centurion?

4 A. Murray Huberfeld.

5 Q. And after Murray Huberfeld stepped down from running  
6 Centurion, who were the Centurion people on the 54th floor?

7 A. Who was on the 54th floor after Murray stepped down from  
8 running Centurion? I think it was basically the same people.

9 Q. Okay. Was Gilad Kalter there?

10 A. Yes.

11 Q. Do you remember what his role was?

12 A. It was -- he had some sort of a role in the credit fund in  
13 Centurion.

14 Q. Brian Jedwab?

15 A. Same. He was a portfolio manager to my recollection.

16 Q. And who told you that PPVA was moving to the 4th floor?

17 A. I was told by Mark Nordlicht and by Ari Glass.

18 Q. And what did they tell you?

19 A. They told me that they didn't -- they wanted to  
20 institutionalize PPVA and in order to institutionalize it they  
21 wanted to be on their own floor because there were a lot of  
22 rabbis coming up to this floor and it was more -- it didn't  
23 look that professional. And they felt that being downstairs  
24 alone, without all these charities and everything coming up to  
25 the office, would be more beneficial.

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Bodner - Direct

1 Q. After they moved downstairs, did you have a conversation  
2 with Ari Glass about the 4th floor?

3 A. Yes. Ari Glass came over to me and he says that he doesn't  
4 want me to come down at all because, as he quoted it, wearing  
5 my *yalmulke* and my white shirt, my suit, I looked too Jewish,  
6 and the institutions are not going to want to put money into  
7 the fund. So before I go down to the 4th floor, I should call  
8 up and make sure that there is no investors there at that time  
9 if I have a reason to go down to the 4th floor.

10 THE COURT: Are you Jewish? I never would have  
11 guessed.

12 Go ahead, counsel.

13 BY MR. LAUER:

14 Q. Who was Ari Glass?

15 A. Ari Glass was a partner that was brought in to Platinum  
16 Management to raise money from institutions and from other high  
17 net worth investors.

18 Q. Did you speak with Mark Nordlicht about what Ari Glass had  
19 told you about coming down to the 4th floor?

20 A. I recall that it bothered me and I must have spoken to him  
21 about it.

22 Q. Now we have heard about a gentleman named Uri Landesman.  
23 Who was Uri Landesman?

24 A. Uri Landesman, there was a fallout between Mark Nordlicht  
25 and Ari Glass, and at that time Mark was looking for somebody

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Bodner - Direct

1 to replace Ari Glass, so he brought in Uri Landesman.

2 Q. And what did Landesman do at PPVA?

3 A. Landesman became president of PPVA, and he was also in the  
4 business of raising institutional money.

5 Q. We have also heard the name David Levy. Who was David  
6 Levy?

7 A. David Levy was a portfolio manager and later he became very  
8 close to Mark Nordlicht. He was doing everything together with  
9 Mark.

10 Q. How did Levy come to Platinum?

11 A. I think he was recommended by Murray Huberfeld, who was his  
12 uncle.

13 Q. Bernie Fuchs, what was his role at PPVA?

14 A. If I remember correctly, Bernie Fuchs was an investor.

15 Q. Did he have a role at PPVA either as an investor or later  
16 as a partner?

17 A. Later he became a partner.

18 Q. And what did he do for PPVA?

19 A. He raised money.

20 Q. Did you have any discussion with Bernie when he became a  
21 partner?

22 A. Yes, when --

23 Q. What was that discussion?

24 A. The discussion was when Mark Nordlicht made him a partner,  
25 he came into my office very happy and he told me that he's

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Bodner - Direct

1 becoming a partner in the fund, and he was smiling. He was  
2 very happy.

3 So I mentioned to Bernie that I think it's only fair,  
4 because that's the way I used to do it, together with  
5 Huberfeld, we would wait to take out our withdrawals. I'm not  
6 talking about incentive fees. That was for sure something that  
7 came last. But even our own withdrawals, I used to take out  
8 profits at the end of every year to support my family, to give  
9 charity, to pay taxes, but I was always last. I waited for  
10 investors to take out money first. And I told Bernie I think  
11 that's the right way a partner should do it.

12 It upsetted him because he felt that he is not going  
13 to be able to get his redemption right away, and that was the  
14 discussion.

15 Q. Did you make Bernie Fuchs a partner?

16 A. No.

17 Q. Did you have a discussion with Bernie or were you told by  
18 someone that he had a discussion with Bernie in terms of what  
19 was expected of Bernie in making him a partner?

20 A. If I remember correctly, I discussed with Murray Huberfeld  
21 why they made Bernie a partner, himself and Mr. Nordlicht, and  
22 he told me that Bernie committed that he would raise \$125  
23 million for the fund.

24 Q. At any time did anyone working in Platinum Management,  
25 other than perhaps your shared secretary, report to you?



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Bodner - Direct

1 A. No.

2 Q. Did you supervise anyone at Platinum Management?

3 A. I did not supervise anybody at Platinum Management.

4 Q. Did you participate in valuation committee meetings?

5 A. I never participated in any meetings of evaluations.

6 Q. Did you get draft valuation documents?

7 A. I have never received any draft evaluation documents.

8 Q. Did you know that Platinum had a risk committee?

9 A. I knew that there was some sort of a committee there  
10 that -- when you say Platinum, I knew that Murray Huberfeld,  
11 when he ran Centurion, he had a small committee that, you know,  
12 looked at the loans and saw if they were risky or not, and PPVA  
13 I did not have any knowledge of any committees.

14 Q. I take it you did not participate in PPVA risk committee  
15 meetings?

16 A. In PPVA risk committee meetings I never participated.

17 Q. Did any PPVA trader report to you daily, weekly, or monthly  
18 positions?

19 A. No trader ever reported to me.

20 Q. Did you review PPVA trading positions?

21 A. Never.

22 Q. Did you get e-mails or memos with operating data for the  
23 oil and gas investments?

24 A. I never got any e-mails on data for operating, for the  
25 oils.

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Bodner - Direct

1 Q. Did you get documents or e-mails with respect to the number  
2 of wells that were being drilled?

3 A. I don't recall getting any documents on anything on the oil  
4 industry.

5 Q. How about the reserves, the number of barrels in the  
6 ground?

7 A. No.

8 Q. The oil and gas actually produced by these development  
9 sites?

10 A. I don't recall getting anything on any oil and gas.

11 Q. Any details of production issues?

12 A. I don't recall getting any details of any production  
13 issues.

14 Q. What about for the other operating companies that  
15 Platinum -- that PPVA had an interest in? Did you get  
16 operating data, financial data for those investments?

17 A. No, not to my recollection.

18 Q. Did you get any data that would have enabled you at any  
19 time between 2012 and 2016 to determine the accuracy of the  
20 valuations that were assigned to the assets owned by PPVA?

21 A. No, I did not get any data.

22 Q. Now, we heard of an investment called China Horizon.  
23 Briefly, tell us your recollection of the development of this  
24 investment and exactly what it was.

25 A. China Horizon was brought to the fund by a gentleman by the

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Bodner - Direct

1 name of Alan Clingman. He came to me and he explained to me  
2 what he was doing. In the rural areas in China there were  
3 billions of people living, and the only way they were able to  
4 buy basic needed stuff—toothbrushes, toothpaste,  
5 mouthwash—was by going to a gas station. He decided that he  
6 wants to make these gas stations, turn them into 7-Elevens,  
7 that all these places should have 7-Elevens all over the place  
8 in all these rural areas and he felt that it would be  
9 profitable from the profit that he would be making on the  
10 products and also by enticing American companies by sending  
11 these products to his stores in China.

12 Q. Did you personally invest in China Horizon?

13 A. Yes.

14 Q. Did Mr. Huberfeld personally invest?

15 A. Yes.

16 Q. About how much did the two of you invest?

17 A. If I recall correctly, together about a million dollars.

18 Q. In addition to your personal investment, did PPVA invest in  
19 China Horizon?

20 A. Yes.

21 Q. Who from PPVA took a lead role in monitoring the China  
22 Horizon investment?

23 A. Bernie Fuchs.

24 Q. Do you know how it came about that Bernie Fuchs was the one  
25 monitoring China Horizon?

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Bodner - Direct

1 A. Bernie Fuchs used to travel to China for his electronic  
2 business, so he knew the Chinese people very well. He knew  
3 where to go, what to do, and everything. So the fund felt  
4 comfortable, Mark Nordlicht, sending him, and he should be  
5 part, he should be on the board of China Horizon, and he should  
6 report back what he sees over there.

7 Q. And did Mr. Fuchs report to you and the others at PPVA?

8 A. Mr. Fuchs, when I asked him how it was doing—I had my own  
9 personal investment—he told me how he felt it was doing.

10 Q. And how did he feel it was doing?

11 A. It was very bullish.

12 Q. Did you have a detailed financial information on the China  
13 Horizon investment?

14 A. I don't remember having detailed financial information. I  
15 knew that they needed money and they were soliciting people for  
16 money.

17 Q. Did the come to learn at a certain point that the Chinese  
18 government reneged on its agreement?

19 A. Yes.

20 Q. And do you recall what happened after that?

21 A. I recall that Alan Clingman was talking about suing the  
22 government and he felt that he would be able to get the  
23 business back going somehow.

24 Q. We heard some testimony concerning a meeting that took  
25 place with you and some of the others on China Horizon.

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Bodner - Direct

1 Mr. Katz testified to this. Do you recall the meeting?

2 A. No, I don't.

3 Q. What happened actually to Mr. Clingman's lawsuit?

4 A. If I'm not mistaken, I think he won \$26 million from the  
5 government, Chinese government.

6 Q. That was for his interest?

7 A. I don't know whose interest it was for.

8 Q. Over the five years that we are focusing on in this  
9 courtroom, in addition to China Horizon, can you think of any  
10 other PPVA operating company investment where you had some more  
11 direct connection.

12 A. PPVA had an investment in company call Agera.

13 Q. Briefly what was the business of Agera?

14 A. Agera was selling energy.

15 Q. And did you come to spend some time at the Agera offices?

16 A. Yes, I did.

17 Q. Can you tell us what caused you to spend time at the Agera  
18 offices?

19 A. I had a son who for seven and a half years had OCD,  
20 obsessive-compulsive disorder, and I was trying to get him out  
21 of it by putting him into business. And it helped him a lot by  
22 going out and doing deals, finding deals, having his own  
23 office. So I spoke to the person at Agera, if it was possible  
24 to make him a salesman, to sell the energy, to bring customers  
25 to Agera.

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Bodner - Direct

1 Q. Who did you speak with?

2 A. Kevin Cassidy.

3 Q. Did he agree to bring your son on as a salesman?

4 A. After I told him the situation, not only did he agree to  
5 bring him on, he gave him an office there also.

6 Q. Other than -- did you have any detailed financial  
7 information about Agera?

8 A. No, I did not.

9 Q. Did you have a role in managing the Agera business?

10 A. No role whatsoever.

11 Q. Did there come a time when PPVA lent money to Agera?

12 A. I know that PPVA owned Agera to some degree. I don't know  
13 how, if they lent money or how they got ownership in Agera.

14 Q. Did there come a time when you participated in one or more  
15 loans to Agera?

16 A. Yes.

17 Q. Can you tell us about that.

18 A. David Levy formed something, I forgot the name, and it was  
19 lending money to Agera, and it was paying an interest rate  
20 monthly.

21 Q. Did you ever speak to the auditors who audited the  
22 financial statement of PPVA?

23 A. Never spoke to any auditors.

24 Q. Did you speak with any of the valutors who issued the  
25 valuation reports on the PPVA assets?

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Bodner - Direct

1 A. No, I did not.

2 Q. Now, every month you received an NAV report, right?

3 A. At the end of the month I would call a gentleman by the  
4 name of Michael Kimelman, and I would ask him basically if he  
5 could tell me how much the fund was up and how my different  
6 entities, what they were worth at that time and how much money  
7 was in the fund.

8 Q. When you talk about individual entities, do you mean each  
9 of the family accounts that you had at PPVA?

10 A. That's what I mean.

11 Q. And is the information that Kimelman gave you, whether the  
12 fund was up or what percentage it was up, is that any different  
13 than the information that all the outside investors were  
14 getting?

15 A. No, it's not.

16 Q. Did you have any role in developing the numbers that became  
17 the NAV statement?

18 A. I'm not understanding the question.

19 Q. Did you have any role in participating in figuring out what  
20 the net asset value would be each month?

21 A. No, I did not.

22 Q. You mentioned that you would call Kimelman. Did outside  
23 investors also call Kimelman?

24 A. Some outside investors called him.

25 Q. All right. And did outside investors have the opportunity

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Bodner - Direct

1 to call other members of the Platinum executive group?

2 A. Yes, I think they did.

3 Q. All right. Do you know anyone who followed up more  
4 directly?

5 MR. GLUCK: Objection.

6 A. I think --

7 THE COURT: Sustained.

8 MR. LAUER: All right.

9 BY MR. LAUER:

10 Q. We have heard -- I'm going to ask you some list of names  
11 and tell us briefly what they did.

12 Naftali Manela.

13 A. Naftali Manela I think was the CFO of Centurion Partners.

14 Q. Okay. Joseph SanFilippo.

15 A. Was the CFO of PPVA.

16 Q. Did you supervise SanFilippo?

17 A. No, I did not.

18 Q. Did he take instruction from you?

19 A. No, he didn't.

20 Q. Mr. Steinberg, who was here on Friday.

21 A. Mr. Steinberg was a portfolio manager and later he became a  
22 risk manager.

23 Q. Did you direct him?

24 A. No, I did not direct him.

25 Q. David Ottensoser. Who was he?



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Bodner - Direct

1 A. If I'm not mistaken, he was an in-house lawyer for  
2 Platinum.

3 Q. Did you supervise him?

4 A. No, I did not.

5 Q. Suzanne Horowitz.

6 A. I think at the later date Suzanne Horowitz became an  
7 in-house attorney.

8 Q. Did you have any interaction with her?

9 A. I don't remember offhand having any interaction with her.

10 Q. Eli Rakower, do you know that name?

11 A. It sounds familiar.

12 Q. Did you have any dealings with him?

13 A. No.

14 Q. Mr. Jed Latkin, who was here a few days ago, do you  
15 remember what he did?

16 A. No, I don't.

17 Q. Seth Gerszberg, did you supervise him?

18 A. No, I didn't.

19 Q. Kerry Propper. Who was Kerry Propper?

20 A. Kerry Propper was a friend of David Levy and he was brought  
21 on to become a partner in the fund and maybe ultimately take  
22 over the reins from Mark Nordlicht.

23 Q. What interaction, if any, did you have with Kerry Propper?

24 A. I was introduced to him being an owner of Platinum  
25 Management.

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Bodner - Direct

1 Q. Did you hire him?

2 A. No.

3 Q. Danny Saks, who was Danny Saks?

4 A. Danny Saks was also a gentleman that was supposed to come  
5 in and take over managing the fund.

6 Q. Did you hire Danny Saks?

7 A. No, I did not.

8 Q. Now, from time to time, did the partners in Platinum  
9 Management get together for meetings?

10 A. From time to time.

11 Q. To the best of your recollection, during the period, say,  
12 2012 through 2016, how often did the partners get together?

13 A. Not very often.

14 Q. Do you recall -- can you put a number on it?

15 A. I would say maybe three or four times a year we had dinner  
16 together.

17 Q. And during this period of time, '12, '13, '14, '15, the  
18 beginning of '16, who typically would attend these dinner  
19 meetings?

20 A. Well, in the beginning, it was attended by Uri Landesman,  
21 myself, Murray Huberfeld, and Mark Nordlicht.

22 Q. And after the beginning?

23 A. After Bernie Fuchs became a partner, he started to attend  
24 the meetings.

25 Q. During the period 2012 to 2016, how often did you come to

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Bodner - Direct

1 the office?

2 A. I came to the office usually two or three times a week and  
3 usually for about three hours.

4 Q. And are you -- how is it that you came to the office for  
5 three hours?

6 A. First of all, I live in Monsey, New York. Just traveling  
7 to get to the office could take two, two and a half hours, so I  
8 used to not leave my house before 10:30, 10, 10:30, or 11:00,  
9 because there was no traffic then.

10 Q. And when would you leave?

11 A. I usually left anywhere between 2:30 and 4:00.

12 Q. Okay.

13 A. Also on the way home there was traffic, and I wanted to  
14 avoid traffic.

15 Q. We heard testimony that there was a time or for a while, a  
16 long while, that you shared an office with Murray Huberfeld.

17 A. Yes.

18 Q. Did there come a time when you moved off of the 54th floor  
19 to a different office building?

20 A. Yes.

21 Q. Do you recall approximately when that was?

22 A. I think in 2014 Platinum moved out of 57th Street to 55th  
23 Street.

24 Q. And did you move to 55th Street?

25 A. Yes.

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Bodner - Direct

1 Q. Did Mr. Huberfeld move to 55th Street?

2 A. No.

3 Q. So during the -- I guess the last two years of this time  
4 period, you did not share an office with Mr. Huberfeld.

5 A. I did not share an office with him.

6 Q. Did your -- did you continue to have the level of contact  
7 with Mr. Huberfeld that you previously had?

8 A. Much less.

9 Q. Did there come a time when liquidity became a central  
10 concern of PPAV?

11 A. Yes.

12 Q. To the best of your recollection, can you tell us how that  
13 came about?

14 A. When you say concern, what do you mean by that?

15 Q. Was this a topic of discussion?

16 A. Yes.

17 Q. All right. Tell us what the discussion was.

18 A. The discussion was that Mark needed money -- Mark Nordlicht  
19 was not a person who used to calculate that January 1 I'm going  
20 to need for February 1 a certain amount of withdrawals, so I  
21 have to put that money on the side. He didn't exactly  
22 calculate to the point how much he is going to need. He was a  
23 very optimistic person, and it came a time when it just hit him  
24 in the face that he needs a certain amount of liquidity to give  
25 back the withdrawals and money for the companies.

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Bodner - Direct

1           So at every dinner that we had, that was the top  
2     topic. Where are we going to get the liquidity from? How are  
3     we going to get the liquidity? Which investors are we going to  
4     for the liquidity.

5           (Continued on next page)

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Bodner - Direct

1 BY MR. LAUER:

2 Q. Did you also have discussions with Mark Nordlicht at these  
3 meetings or otherwise in terms of how much cash he had  
4 available set aside that was not invested?

5 A. I don't remember having that discussion, but he always  
6 needed money. So I understood that there was no money set  
7 aside.

8 Q. Did you have an understanding as to Mark's approach to  
9 using cash in investing?

10 A. Not really.

11 Q. By the way, after Mr. Huberfeld was arrested, did you  
12 continue to have conversations with him?

13 A. I went to visit him.

14 Q. At some point in time, did the partners stop taking the  
15 incentive fees?

16 A. Yes.

17 Q. Was that your decision?

18 A. Nothing to do with me.

19 Q. Can you tell us how that came about?

20 A. Mark Nordlicht decided that for the year 2014, we're not  
21 going to pay out incentive fees, instead we're going to accrue  
22 them. That means we're going to still own them, it's going to  
23 be ours, but we're not going to take them out in cash.

24 Q. Did Mark explain why he was doing that?

25 A. He had no money to give us.

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Bodner - Direct

1 Q. Tell us the general format of these partner dinners, who  
2 said what and what information was exchanged?

3 A. It wasn't really an official meeting, it was more of a  
4 dinner. We had dinner together, we used to speak about  
5 everything that's going on in the Jewish world and in the world  
6 in general. Then, for a few minutes, Mark would bring a sheet  
7 of paper and on the sheet of paper, he would show the fund's  
8 positions, and he would talk about how much money he needs and  
9 when he needs it and how he's pressed that he must have this  
10 money by this and this time to support the companies and also  
11 to support the withdrawals.

12 Q. Why was Mark telling the partners this?

13 A. To tell the partners to go out and raise money.

14 Q. Did you go out and raise money for the fund?

15 A. No.

16 Q. Did there come a time when in or about the end of 2014 or  
17 the first month or two of 2015, when the partners met and  
18 Mr. Fuchs now attended?

19 A. Yes.

20 Q. Do you have a recollection of that dinner?

21 A. Yes, I do have a recollection of it.

22 Q. So, to the best of your recollection, tell us what you  
23 remember about the dinner.

24 A. I remember that Mark was under a lot of pressure. He  
25 needed over \$100 million very fast to meet redemptions and for

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Bodner - Direct

1 his companies. He said that if we don't raise it, the fund's  
2 going to have to shut down, put up the gate or something's  
3 going to happen.

4 Q. Did he go through the assets?

5 A. I don't remember if he went through the assets. I think it  
6 was more withdrawals that he was concerned about. That was  
7 most of the money what was needed for.

8 Q. Do you recall generally or approximately how much money was  
9 going out above how much was coming in?

10 A. I think he was usually short \$25 million, 25 to 50 million,  
11 that's what he was asking for.

12 Q. Did you say anything at that dinner meeting?

13 A. Yes. I told Mark that I think an asset, being a trader,  
14 and when you trade something, you buy and sell something, you  
15 get cash right away. If you buy a stock and you sell it, the  
16 cash comes out right away. If you buy an illiquid asset, I  
17 told him that I think he should mark the asset when it's sold.  
18 When that happens, when the asset is sold, that's the right  
19 time to mark it because you're causing everybody to want to  
20 take their money out. If you have an illiquid asset that goes  
21 up, people are going to be enticed to make withdrawals. And I  
22 think that was his major problem and you don't have the money  
23 to give it because your asset is illiquid.

24 Q. Did you say anything about the correctness of Mark's  
25 valuations?



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Bodner - Direct

1 A. Absolutely not.

2 Q. Did you have any information to form an opinion confirming  
3 or contradicting his valuations?

4 A. No, I did not.

5 Q. When you told this to Mark, what was Mark's reaction?

6 A. Mark got very angry at me, he screamed at me, it was in the  
7 middle of a restaurant. And he says, you don't come into the  
8 office, go back to Monsey, go back to Yeshiva, you do not how  
9 to run a hedge fund. I have two accountants and an evaluator  
10 who tell me how to run the hedge fund.

11 Q. What did you do after he said that?

12 A. If I'm not mistaken, I was very upset. He embarrassed me  
13 in front of not only the people sitting at the table, but there  
14 was a group of people sitting in the restaurant. So I might  
15 have left then or very soon after.

16 Q. Did you continue to invest your family money in the fund?

17 A. I don't remember if I put in new money, but I did not  
18 withdraw my money.

19 Q. Did you continue to have confidence in Mark?

20 A. Yes.

21 Q. Why was that?

22 A. Because Mark was an optimistic person. I knew Mark over  
23 the years, not only from '12 to '16, that Mark would invest,  
24 overinvest every penny that he had. A good deal came his way,  
25 he would put money in it even if he didn't have the money for

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1 it. And he showed me very nice returns. And I believe, you  
2 know, he believed in everything he did.

3 Q. Did Mark have a previous experience with a liquidity crisis  
4 with PPVA?

5 A. Mark had an experience in 2008 when the whole world was  
6 shaking and all the hedge funds were shaking. And if I  
7 remember correctly, he side-pocketed the nonliquid assets,  
8 meaning that nobody could take out any of their money. If I'm  
9 not mistaken, it was 55 or 60 percent of the fund's assets that  
10 nobody was allowed to take out. It's called a side pocket.  
11 And then, over the years, he worked out of it and I think by  
12 2010, two years later, everybody was able to receive all their  
13 money, whatever they wanted.

14 Q. Did you say at that dinner something to the effect that no  
15 one is taking money out?

16 A. No.

17 Q. We've heard testimony about a gentleman named Marcos Katz.  
18 Who is Marcos Katz?

19 A. Marcos Katz was an older man who lived in Mexico City, a  
20 wealthy man who I knew for quite a few years.

21 Q. Did you bring Mr. Katz into PPVA or Platinum?

22 A. No, I did not.

23 Q. Who at Platinum had the closest relationship with Mr. Katz?

24 A. Murray Huberfeld.

25 Q. Did you have occasion in or about 2015, 2016 to meet with

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1 Mr. Katz on one or more occasions?

2 A. Yes, I did.

3 Q. And can you tell us why you were meeting with Mr. Katz?

4 A. Mr. Katz was very upset that he put in redemptions and they  
5 weren't giving him his money.

6 Q. Why did you meet with him?

7 A. I met with him to try and explain to him that there's no  
8 money and nobody's getting redemptions.

9 Q. Do you recall anything else that was discussed with  
10 Mr. Katz?

11 A. I think, if I'm not mistaken, there were two meetings, one  
12 in Mexico and one in Acapulco.

13 Q. Was the conversation different or basically are you  
14 testifying to what you recall from the two meetings?

15 A. I think one meeting, Marcos Katz was discussing coming into  
16 the fund and being a partner in management. He was telling us  
17 that he was able to bring in investors, and his name being  
18 associated with the fund would help the fund immensely. I  
19 think he introduced Murray Huberfeld and Mark Nordlicht to some  
20 Saudi Arabian person that they trapped that he said he could  
21 put in \$200 million. And he was going to introduce him, he  
22 knew him. And they would fly down there -- and I think they  
23 did fly down there and they met with him. That's my  
24 recollection.

25 Q. Did you know Marcos Katz's grandson, Michael Katz?

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1 A. Yes, I knew him.

2 Q. Did you see him at the Platinum offices?

3 A. When I was in the office, he was usually there.

4 Q. Any idea what he was doing?

5 A. Marcos Katz wanted him to have a job. Mr. Huberfeld told  
6 me that Marcos Katz wanted him to have a job at Platinum and to  
7 watch over the fund for him.

8 Q. And did you come to form an understanding as to what  
9 Michael Katz was doing to monitor the investment?

10 A. I noticed that he was very busy meeting with David Levy and  
11 Mark Nordlicht a lot.

12 Q. Did Michael Katz have any connection to the fund itself?

13 A. Connection in which way?

14 Q. I'll rephrase it.

15 You said that Marcos Katz expressed an interest at one  
16 of these meetings in joining the management or ownership of the  
17 fund. Did that include a role for his grandson?

18 A. Yes, he wanted his grandson to be part of the fund.

19 Q. Did you make any misrepresentations to Marcos Katz about  
20 valuations?

21 A. No.

22 MR. GLUCK: Objection.

23 Q. Was the conversation even about valuations?

24 A. No.

25 Q. In 2016, did there come a time when Mark Nordlicht asked

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1 you and Murray Huberfeld to give up your shares in Platinum  
2 Management?

3 A. Yes.

4 Q. What did Mark tell you?

5 A. Mark told me that he needs money and money is not coming  
6 in, so he would like to sell our piece of the management to  
7 raise money.

8 Q. Before he asked you to give up your piece of management,  
9 had he asked you for personal money?

10 A. He constantly asked me to put in personal money.

11 Q. And did you agree?

12 A. I told him that I can't afford it.

13 Q. So you did not agree?

14 A. I did not agree to put in any more personal money.

15 Q. Did Mark explain to you why it would make sense for you and  
16 Mr. Huberfeld to give up your interest in Platinum Management?

17 A. Yes.

18 Q. And what did he say?

19 A. He said that if we don't give up, if he doesn't raise  
20 money, the fund is going to fall apart and everybody's going to  
21 lose their money because you're not going to be able to support  
22 the companies to give them the money they need to develop or go  
23 further. So it would make sense to give it up to save my  
24 \$80 million that I had together with Mrs. Huberfeld to get that  
25 out by just giving up my ownership in Platinum.

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1 Q. Did you consider that your ownership in Platinum Management  
2 had value?

3 A. Definitely.

4 Q. Did this develop into an agreement?

5 A. Yes.

6 Q. And in connection with the agreement, did the agreement  
7 contain mutual releases?

8 A. Yes, it did.

9 Q. Was there also a companion agreement between Mr. Katz and  
10 the Platinum Partners?

11 A. To my recollection, there was.

12 Q. Do you have a recollection of who actually first raised the  
13 issue of releases?

14 A. No, I don't.

15 Q. Did you raise the issue of releases?

16 A. No, I did not.

17 Q. I'd like to show you JX 74.

18 MR. LAUER: Your Honor, despite our great efforts, we  
19 have not been able to clarify whether this actually was  
20 technically received or not.

21 THE COURT: My recollection is that when that question  
22 was last raised, I said that if it had not previously been  
23 received, it was now received. But to put it so there is no  
24 doubt whatsoever, it has been or will now be received.

25 (Joint Trial Exhibit 74 received in evidence)

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1 MR. LAUER: Thank you, your Honor. Thank you. Thank  
2 you.

3 BY MR. LAUER:

4 Q. Mr. Bodner, I'm showing you what has been marked as Joint  
5 Exhibit 74. Is this the release agreement between Platinum  
6 Management and you and Mr. Huberfeld?

7 THE COURT: Do you want to look at a hard copy?

8 THE WITNESS: No, I'm fine.

9 A. Can we go to the next page.

10 Q. Please, let's go to the next page.

11 A. Thank you.

12 Q. You're free to read it, but you don't have to read it in  
13 detail.

14 A. Ask me the question.

15 THE COURT: Would someone please go to the last  
16 signature page.

17 On the bottom-right column, it says David Bodner and  
18 then there is a signature. Is that your signature?

19 THE WITNESS: Yes, that's my signature.

20 THE COURT: And you signed it because you accepted and  
21 entered into this agreement, yes?

22 THE WITNESS: Correct.

23 THE COURT: Very good.

24 MR. LAUER: Thank you, your Honor.

25 Q. Was your agreement dependent on Mr. Katz actually going

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1 through with his own agreement?

2 A. That was not my understanding.

3 Q. At the time that you entered into this agreement, did you  
4 have --

5 THE COURT: Just so I'm clear, you understood that  
6 this was in conjunction with your giving up your ownership in  
7 the management company, yes?

8 THE WITNESS: Yes.

9 THE COURT: And you said a minute ago that that had  
10 value. Would you explain why, in your view, it had that?

11 THE WITNESS: It had value because if you go back,  
12 over the years, the management company, if I'm not mistaken, I  
13 could be off by the figures, was able to generate in incentive  
14 fees and in management about 40 to \$50 million a year.

15 THE COURT: And that was money that was above what one  
16 would get from just being an investor?

17 THE WITNESS: Correct.

18 THE COURT: All right. Go ahead, counsel.

19 BY MR. LAUER:

20 Q. By the way, in this agreement, there's an indemnity. Did  
21 you ask Mark Nordlicht to indemnify you?

22 A. I think I did.

23 Q. What was the particular issue for which you asked Mark to  
24 provide an indemnity?

25 A. It's called gift tax. I was gifting my ownership back to



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1 Platinum Management and my accountants told me that I might  
2 have a liability on a gift tax due to the value of it. Plus, I  
3 was giving back any fees that were owed to me. So I wanted him  
4 to indemnify me, if I have any liability, tax liability, he  
5 would pay it.

6 Q. Now, in this agreement, you agreed to a two-year lockup?

7 A. Yes.

8 Q. And Mr. Huberfeld agreed to a two-year lockup?

9 A. Mr. Huberfeld also agreed.

10 Q. So approximately how much money were you agreeing not to  
11 take out of PPVA and PPCO?

12 A. Between myself and Mr. Huberfeld? Around \$80 million.

13 Q. So why did you agree to this?

14 A. Because the fund was in dire straits. Mark Nordlicht  
15 explained to me that by selling ownership, it had a tremendous  
16 value. If I remember correctly, he told me it could --  
17 ownership could be worth \$200 million and by selling my piece,  
18 he would be able to raise \$70 million either by having people  
19 invest money in Platinum and giving them a small piece of the  
20 ownership or by just selling the ownership straight out.

21 Q. At the time that you signed this agreement, did you have  
22 any idea that Murray Huberfeld had given funds to Jonah  
23 Rechnitz regarding COBA?

24 A. No, I did not.

25 Q. Did you have any idea that Murray Huberfeld faced criminal

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1 exposure for that?

2 A. No, I did not.

3 Q. Were you charged in the COBA case?

4 A. No, I was not.

5 Q. Were you a witness at the trial?

6 A. I was not a witness.

7 Q. Did the government interview you for assistance at the  
8 trial or cooperation?

9 A. No, the government did not interview me at all.

10 Q. Did you have any contact with COBA?

11 A. No contact whatsoever.

12 Q. At the time that you signed this agreement, did you have  
13 any concerns that PPVA had claims for incentive fees or  
14 management fees against you?

15 A. No.

16 Q. At any time between 2012 and when you signed this release,  
17 did you have any idea that Platinum Management would be sued  
18 for fraud or that Mark Nordlicht would be indicted for fraud?

19 A. No, I had no idea.

20 MR. GLUCK: Objection.

21 Q. Were you aware of any claims that PPVA had against Platinum  
22 Management?

23 A. I was not aware of any claims, no.

24 Q. Now, a few months after you signed this agreement, Murray  
25 Huberfeld was arrested; right?

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1 A. Correct.

2 Q. What happened to the fund after that?

3 A. I think the fund was in disarray. I wasn't that often in  
4 the office, but I think everything was in disarray. I was more  
5 busy -- Mark Nordlicht was my partner for 30 years, I was more  
6 busy visiting him and seeing how I could help him.

7 Q. Mark Nordlicht was indeed charged. Do you know what he was  
8 charged with?

9 A. I think he was charged for over-valuating the fund and also  
10 something with a Black Elk vote.

11 Q. Did you have anything to do with the Black Elk vote?

12 A. Absolutely nothing to do.

13 Q. And what happened to the charge against Mr. Nordlicht for  
14 overvaluing the fund?

15 A. The jury found him not guilty.

16 MR. GLUCK: Objection.

17 THE COURT: So that objection, of course, should have  
18 been made before the answer was given, and I've warned  
19 plaintiffs' counsel before to be a little more alert to that,  
20 but the objection is sustained.

21 Q. I would like to show you a group of different emails that  
22 have come into evidence so that you will have the opportunity  
23 to help us understand the documents. We could start with the  
24 screen.

25 MR. LAUER: These are all in evidence.

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1 THE WITNESS: For me, it would be better with the  
2 screen. It's much better for me.

3 Q. You want paper or screen?

4 A. Screen.

5 Q. Screen, fine. Let me show you Plaintiffs' Exhibit 442.  
6 Take a look at it and let me know when you're ready for a  
7 question.

8 A. I'm ready for a question.

9 Q. Who is Lee Haddad?

10 A. We used to make a charity party twice a year at the home of  
11 Ira Rennert to raise money for poor people in Israel. I was  
12 very involved. And the one who was in charge of all the  
13 logistics and doing everything was a gentleman by the name of  
14 Lee Haddad.

15 Q. And in the middle of the page, a gentleman named Eliyahu is  
16 writing you, attaching a summary investment and valuation for  
17 Omek. What was this?

18 A. Eliyahu is Lee Haddad. His Hebrew name is Eliyahu. Omek  
19 is a company, a private company that he wanted me to invest in.

20 Q. Did this have anything to do with PPVA?

21 A. Nothing to do with PPVA.

22 Q. The bottom of the page says what's the story of Jay  
23 Schottenstein. Do you know who that refers to?

24 A. Yes, that refers to the party. If I'm going to solicit  
25 Jay, to bring money to the party and to come to the party.

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1 Q. And was Mr. Schottenstein a well known, wealthy  
2 businessman?

3 A. Yes, he was a well known, wealthy businessman.

4 Q. Did you solicit him?

5 A. I had Ira Rennert elicit him.

6 Q. And that was for the charity event?

7 A. Yes, it was.

8 Q. By the way, is Mr. Rennert also another wealthy Jewish  
9 businessman?

10 A. Yes, he is.

11 Q. Who is Isaac Barber?

12 A. Isaac Barber was -- I think he was a -- a manager of a  
13 portfolio at the fund. I used to use him to help me out to  
14 value companies. He was very smart and he was able to look at  
15 a company and tell me what he thought it was valued at.

16 MR. LAUER: Turn to Plaintiffs' Exhibit 417.

17 Q. This is dated November 16, 2012. That's the day of the  
18 explosion on one of the platforms that Black Elk had in the  
19 Gulf of Mexico?

20 A. I don't recall this email at all. I don't know who Chaya  
21 is.

22 Q. This says someone left a message on your phone for  
23 Black Elk investors. Do you have any idea what this is about?

24 A. No idea what's going on.

25 Q. Did you solicit anyone to become a Black Elk investor?

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1 A. No, I did not.

2 Q. Were you a Black Elk investor?

3 A. No, I was not.

4 MR. LAUER: Turn to PX 381.

5 Q. Do you have it?

6 A. Yes.

7 Q. This looks like a list of terms?

8 A. Yes.

9 Q. Was this the precursor to the creation of the Beechwood  
10 business?

11 A. Yes.

12 Q. Were you at this initial meeting?

13 A. No, I was not.

14 Q. But you were shown this?

15 A. It was sent to me.

16 Q. What was your understanding of the business model of the  
17 Beechwood business?

18 A. Beechwood was brought to me by my partner, Murray  
19 Huberfeld. He said that he has a friend, Mark Feuer, who has a  
20 sterling reputation. He used to work at Merrill Lynch and he  
21 wants to start a reinsured business. The way I understood a  
22 reinsurer business is that insurance companies have to meet  
23 every year for policies, if somebody dies or if they have to  
24 pay insurance for anything that happens, in order to meet that,  
25 they would pick the premiums that they have and they would give

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1 it to a reinsurer to invest it. And Murray explained me that  
2 according to the actuaries, the people who make charts to see  
3 how much an insurance company should need each year, in order  
4 to meet their commitments, anything over and above that their  
5 investment makes over 4 or 5 percent, we would receive as our  
6 profits, the reinsurer would receive it, Beechwood would  
7 receive it. Being that we were in the asset lending business,  
8 myself and Mr. Huberfeld, over the years, something that made a  
9 lot of sense to me, that there's investments out there that  
10 could earn much more than 4 percent, and that profit would go  
11 to us. Also, I was explained that first losses that come from  
12 these investments go to us. So we would have to put up  
13 \$100 million in capital.

14 Q. Did Mr. Nordlicht participate in this?

15 A. Yes, he did.

16 Q. And did the three of you put up capital?

17 A. We did.

18 Q. And what was Feuer's role in all this?

19 A. Mr. Feuer and Mr. Scott Taylor were the bosses of  
20 Beechwood. They ran Beechwood and their job was to get the  
21 insurance companies to invest the money.

22 Q. And you, Nordlicht, and Huberfeld would put up the capital?

23 A. We'd put up the risk capital, the \$100 million.

24 Q. What do you mean by risk capital?

25 A. That means that if you invested an investment -- let's say

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1 an insurance company puts in \$50 million in the reinsurer and  
2 you make an investment for the reinsurer and you lose  
3 \$5 million, that would come from you before you go take the  
4 money from the insurance company, and it went on a ratio  
5 according to how much money was put in.

6 Q. Approximately how much capital did you personally or your  
7 family members put up to capitalize the Beechwood business?

8 A. I was explained that it was capitalized at different  
9 levels. It had to start first with \$40 million at one level.  
10 I didn't really understand it, but this is the way Mark Feuer  
11 explained it to me, that there's different levels of capital  
12 that go in. The original capital we had to put in was  
13 \$40 million, after that, another amount of money, and then at  
14 another level, another amount of money. Ultimately, I had to  
15 put up \$25 million worth of capital.

16 Q. And what happened to that capital?

17 A. It was lost, except for certain shares that I didn't have  
18 to put in, a certain amount of shares, which was worth, if I'm  
19 not mistaken, about three or \$4 million.

20 Q. In connection with Beechwood, you, Mr. Nordlicht,  
21 Mr. Huberfeld put up the majority of the capital?

22 A. All the capital.

23 Q. Did you have an agreement with Nordlicht and Huberfeld  
24 similar to the agreement you had in Platinum in terms of who  
25 would be in charge of Beechwood?



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1 A. No.

2 Q. So you were each free to express your views?

3 A. We each expressed our views in Beechwood.

4 Q. And Mr. Nordlicht did not control Beechwood?

5 A. As far as I understood, Mark Feuer and Scott Taylor were  
6 the bosses there.

7 MR. LAUER: Turn to Plaintiffs' Exhibit 377.

8 Q. This seems to be a meeting at Prime KO. Prime KO was a  
9 restaurant?

10 A. Prime KO was a restaurant, yes.

11 Q. Do you recall this dinner?

12 A. It was in 2013. I do not recall it.

13 Q. So this says please remind Mark to bring with him to  
14 Prime KO two copies of positions for PPCO and PPVA.

15 What did that look like, if you can recall?

16 MR. GLUCK: Objection.

17 MR. LAUER: I'll rephrase it.

18 THE COURT: Sustained.

19 Q. In what form did these positions appear?

20 THE COURT: I'm sorry. Wait a minute. I thought you  
21 testified you don't recall the dinner.

22 THE WITNESS: That's what I told him, yes. He was  
23 asking me a lot of questions.

24 THE COURT: So do you recall receiving, at the dinner,  
25 some information?

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1 THE WITNESS: I don't recall this dinner.

2 THE COURT: So when, if ever, did you receive the two  
3 copies of the positions for PPCO and PPVA?

4 THE WITNESS: I don't recall receiving it.

5 THE COURT: So how can you know what's in them?

6 Sustained.

7 BY MR. LAUER:

8 Q. At any dinner, do you remember receiving a handout from  
9 Mark Nordlicht?

10 A. At most dinners with Mark Nordlicht, he would come with,  
11 scribbled on a piece of paper, positions that he wrote himself.  
12 And he didn't give us copies, he read them off, and he told us  
13 his liquidity needs, that this position needs this much money  
14 and this needs this and withdrawals.

15 MR. GLUCK: Objection. Move to strike as  
16 nonresponsive, most of the answer.

17 THE COURT: I'll allow it. Overruled.

18 MR. LAUER: Turn to PX 467.

19 Q. This is an email from Angela with your calendar, and your  
20 calendar is Mr. Huberfeld's calendar, and then on the bottom,  
21 David's calendar.

22 Do you see that?

23 A. Yes, I do.

24 Q. So let's turn to David's calendar. Let's go through this  
25 meeting.

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1           The first meeting, 12:00 p.m., Mark Nordlicht and  
2 Allen Clingman. Do you have a recollection of meeting with  
3 Mark and Allen Clingman?

4 A. I don't have an exact recollection, but I probably met with  
5 them about China Horizon, you know, if I would put more money  
6 into it.

7 Q. 1:00 p.m., Nelson Heft. Who was he?

8 A. He was somebody who was bringing me a private deal to look  
9 at.

10 Q. Do you remember the deal?

11 A. No, I don't.

12 Q. 2:00 p.m., meeting with Rob Koltun, Murray Huberfeld, David  
13 Bodner --

14 A. Rob Koltun was a hedge fund manager that I had a  
15 substantial amount of money in together with Murray.

16 Q. That was a personal investment?

17 A. Personal investment, yes.

18 Q. 2:30, Isaac Barber, Murray Huberfeld, David Bodner.

19 A. As I stated on all my private deals, whenever I needed  
20 help, I used to call Isaac Barber to evaluate for me, if I  
21 should go into the deal or not. Also, together, we tried to  
22 start a company. So could be that was the meeting.

23 Q. 3:15, Ben Mayer?

24 A. 3:15, Ben Mayer is having problems, marriage problems with  
25 his wife. He was my nephew, so I used to meet with him and his

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1 wife periodically.

2 Q. 3:30, Tzvi Rosenblum?

3 A. Tzvi Rosenblum was a boy that was on drugs and I would meet  
4 with him and have constant contact with him to try to get him  
5 off drugs and become a productive citizen.

6 Q. 4:30, meeting Ruby Schron and David Bodner at Ruby's  
7 office. Why were you meeting with Ruby Schron?

8 A. I was meeting with him about buying a property in Monsey,  
9 New York, where I live, to build affordable housing for people  
10 who can't afford houses.

11 MR. LAUER: Let's turn to Plaintiffs' Exhibit 470.

12 THE COURT: Counsel, let's find a spot in the next few  
13 minutes, even though we started late, I still do want to give  
14 the jury their midmorning break.

15 MR. LAUER: I could stop at any time. I don't have  
16 that much more, but I could stop. We should take the break.

17 THE COURT: So, ladies and gentlemen, we'll take a  
18 15-minute break.

19 (Continued on next page)

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1 (Jury not present)

2 THE COURT: Please be seated.

3 So, I thank counsel for their very helpful letter  
4 briefs submitted yesterday.

5 With respect to any aiding and abetting theory, having  
6 now reviewed the underlying case law as well as the briefs of  
7 counsel, I agree with defense counsel that aiding and abetting  
8 cannot be a theory for retroactive be liability so that if, for  
9 example, someone enters into a fraudulent scheme by aiding and  
10 abetting, an aspect of the scheme in 2016, that would not  
11 support liability for fraud and damages occurring before 2016.

12 Furthermore, I adhere to the preliminary ruling I made  
13 in connection with the motions *in limine*, that the aiding and  
14 abetting counts here are duplicative of the substantive counts  
15 and so they will not be charged to the jury.

16 With respect to conspiracy, while I continue to adhere  
17 to the position stated in summary judgment that New York law  
18 does not recognize the separate count for conspiracy, I am no  
19 longer of the view that conspiracy and aiding and abetting are,  
20 on the facts of this case, duplicative. Specifically, I think  
21 that if plaintiff can show by meeting all the elements of an  
22 evidentiary proof of conspiracy to support one or the other  
23 substantive counts and can show that Mr. Bodner joined in that  
24 conspiracy, that would support liability for earlier damages on  
25 the classic conspiracy theory that one, when one enters a

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1 conspiracy and becomes part of a conspiracy, one is then liable  
2 for what has occurred in the past in furtherance of the  
3 conspiracy. So the liability for pre-2016 damages remains  
4 viable, but only on a conspiracy theory.

5 I think those are the only issues that I asked the  
6 parties to address in the letter briefs. There are other  
7 issues that, of course, we'll want to take up at the charging  
8 conference that we should talk today about when that's going to  
9 be.

10 Unless there's anything else, we'll give you all a  
11 10-minute break.

12 MR. GLUCK: Your Honor, 2014 or 2016?

13 THE COURT: Maybe it was 2014. I'm sorry. The point  
14 is, if you can show a conspiracy, you can go back to the  
15 beginning of the conspiracy. If you can't show a conspiracy,  
16 then aiding and abetting is out of the case and that's not  
17 going to help you.

18 MR. LAUER: Your Honor, may I just take exception to  
19 the conspiracy portion of this?

20 THE COURT: Yes, of course. Your adversary probably  
21 takes exception to the aiding and abetting theory. And I've  
22 learned through long experience that if both sides disagree  
23 with what I rule, I almost certainly got it right. In any  
24 event, that's for another court to say one way or the other.

25 (Recess)

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1 (Jury present)

2 MR. LAUER: May I continue?

3 THE COURT: Please.

4 MR. LAUER: Please bring up on the screen

5 Plaintiffs' Exhibit 470.

6 BY MR. LAUER:

7 Q. Mr. Bodner, this is an email that was sent to you from  
8 Bernie Fuchs. Do you see that?

9 A. Yes.

10 Q. And the email that he sent you was from Allen Clingman and  
11 it talks about the UBS offering document. Do you recall this?

12 A. I don't recall, but it looks to me like they were trying to  
13 entice me to put more money into China Horizon by showing me  
14 that there's banks that are going to put money in.

15 Q. Did you have any connection with UBS?

16 A. No connection whatsoever.

17 MR. LAUER: Turn to Plaintiffs' Exhibit 384, which  
18 would be next on the screen.

19 Q. This is an email from Elliot Feit to Naftali Manela. Who's  
20 Elliot Feit?

21 A. I don't know.

22 Q. Regarding Puerto Rico limits, he's here now, Scott taking  
23 Murray and Mr. Bodner through the CNO limits now in Feuer's  
24 office.

25 So who's Scott?

MCCCpla2

Bodner - Direct

1 A. Scott must be Scott Taylor, who was Mark Feuer's partner.

2 Q. Do you recall what this meeting was about?

3 A. I think he was taking us through to show us what an  
4 insurance company -- what a reinsurance, a lot of investing for  
5 an insurance company.

6 Q. And why were you at that meeting?

7 A. I was an owner in Beechwood, and also, my son was out there  
8 bringing deals to different people and to different funds. So  
9 he asked me to find out what deals Beechwood would do.

10 Q. Next document is Plaintiffs' Exhibit 414. This is an email  
11 from David Steinberg to Angela Albanese copying Ezra Beren,  
12 Murray Huberfeld. Meeting with David B.

13 Do you recall this meeting?

14 A. I think this meeting was about a private company that I had  
15 in Israel that David Steinberg was involved with me in.

16 Q. Do you remember the name of the company?

17 A. It was a gambling company. I don't remember the name  
18 offhand.

19 Q. Next document is Defendant's Exhibit 710. You're not on  
20 this email, are you?

21 A. No, I do not see myself on there.

22 (Continued on next page)

23

24

25



Mcc2Pla3

Bodner - Direct

1 BY MR. LAUER:

2 Q. Take a look at this for a moment. I will ask you some  
3 questions. Tell me when you are ready.

4 A. I'm ready.

5 Q. At the bottom, Mark Nordlicht writes Ezra Tuchman, "Are you  
6 available 12:30 Monday to meet with my partner David Bodner to  
7 talk about the merchant cash advance line." Do you see that?

8 A. Yes.

9 Q. Do you remember any meetings about merchant cash advance  
10 line?

11 A. I think I do remember that they wanted us to put money in  
12 this business, a merchant cash advance.

13 Q. And then in the middle of the page, Mark writes, "Okay.  
14 There's a chance I might be in London, but David will be there  
15 regardless. I would like to hear more, but I'm already sold on  
16 the borrower." Do you see that?

17 A. Yes.

18 Q. Were you the borrower?

19 A. No, I was not.

20 Q. And then later up the letter, Ezra writes, "Good morning.  
21 I just received an e-mail from David that he has decided to  
22 move forward with another lender." Is that referring to you?  
23 Were you the borrower?

24 A. No, I was not the borrower here.

25 Q. Okay.

Mcc2Pla3

Bodner - Direct

1 A. I didn't borrow money from Mark Nordlicht.

2 Q. And did you ever overrule Mark Nordlicht on a loan  
3 transaction?

4 A. Never.

5 Q. Did you ever overrule Mark Nordlicht on anything?

6 A. No, I did not.

7 Q. Let's do Plaintiffs' Exhibit 415. This is "Bodner needs  
8 four uninterrupted hours with Mark—two hours Tuesday, two  
9 hours Wednesday." Do you remember either the e-mail or the  
10 subject matter of the e-mail?

11 A. Yes, I do.

12 Q. Okay. What do you remember?

13 A. Mark Nordlicht had a plan to open up schools in the modern  
14 orthodox communities all over the United States for a cheaper  
15 tuition. Tuition was costing about \$25,000 a student, and most  
16 working people were not able to afford it. So he had proposed  
17 a plan how he is going to bring the tuition down to \$8,000 with  
18 the same type of education and he would open this up all  
19 through the United States.

20 And he was haunting me every week, I have to meet with  
21 him, I have to meet with him, I have to meet with him, he has  
22 to show me the meeting, what this is about. So I decided, I  
23 said that I have this and this day, but I don't want any  
24 interruptions. Because Mark was used to taking phone calls in  
25 the middle of a meeting. He didn't concentrate. He was unable

Mcc2Pla3

Bodner - Direct

1 to concentrate on one thing. So I told him that's the only way  
2 I'm going to meet him.

3 So he told me we have to meet with a group of five  
4 people and go over exactly the plan. He wanted me because he  
5 felt, through my charities, I knew a lot of very wealthy  
6 individuals, like Ira Rennert, Jay Schottenstein, Izzy  
7 Englander, and maybe through them I will be able to raise  
8 him -- he was looking to raise millions and millions of dollars  
9 to implement this plan.

10 Q. Did --

11 A. That's what this meeting was about.

12 Q. Sorry.

13 Did one or more of these meetings occur?

14 A. I remember one meeting occurred, and I met with Mark and  
15 with a gentleman and with a lady.

16 Q. And what was the topic?

17 A. The topic was the school, the plan. They showed me a whole  
18 plan, how it's going to work, how the kids are going to get  
19 educated, where they are going to open it. They took me  
20 through everything.

21 Q. And after the meeting, did you do anything on this?

22 A. I didn't do anything because I was very overcommitted with  
23 my own charities and I couldn't bring in a new charity at that  
24 point to this.

25 Q. The next document is Plaintiffs' Exhibit 373. Tell me when

Mcc2Pla3

Bodner - Direct

1 you are ready. You are not on this e-mail.

2 A. I think I am ready.

3 Q. Okay. So where did Brian Jedwab work?

4 A. Brian Jedwab I think worked upstairs on the 54th floor.

5 Q. He was not part of the PPVA portfolio group?

6 MR. GLUCK: Objection.

7 Q. Was he part of PPVA?

8 A. No.

9 Q. This says, like the third or fourth line down, "Consumer  
10 lending line is an offshoot of bellicose and was cut from 50  
11 million to 10 million by DB after term sheet was completed."

12 Do you know what that references?

13 A. No, not offhand.

14 Q. Maybe a third of the way down to the bottom there is the  
15 sentence, "This revised loan agreement against the business  
16 loans is also a good one. Paul Reddam has been a great  
17 borrower. I can't go back and modify any further to lower the  
18 advance rate as Dovid asked." Do you know what that is  
19 referencing?

20 A. I was an investor with Brian Jedwab in Cash Call which, if  
21 I remember correctly, Paul Reddam ran it. And when Brian came  
22 to me to ask me to put more money in, a substantial amount of  
23 money, I asked him that he should go back to the borrower and  
24 try to get me a better deal.

25 Q. Did -- was this a PPVA asset?

Mcc2Pla3

Bodner - Direct

1 A. I think PPVA was also an investor in Cash Call.

2 Q. But this was Brian Jedwab's transaction?

3 A. I think Brian Jedwab brought deals to PPVA and to PPCO. I  
4 think they invested together.

5 Q. Turning to Plaintiffs' Exhibit 588. This is an e-mail from  
6 Mr. Nordlicht to Murray Huberfeld and he starts out, "Please  
7 read this to Dovid." Do you recall Murray reading this to you  
8 or showing it to you or discussing it with you?

9 A. I recall somebody showing it to me.

10 Q. So the second paragraph, Mr. Nordlicht says to  
11 Mr. Huberfeld for him to say to you, "The frustrating part for  
12 me and Bernie is that Mr. Fuchs" --

13 A. Yes.

14 Q. -- "when we discussed, it's that we have gone all in with  
15 our lives, and we feel it is not the same for you guys." "You  
16 guys" refers to you and Mr. Huberfeld.

17 A. Yes.

18 Q. And then he says, "God knows I'm not perfect, and I accept  
19 blame for getting us into liquidity crisis." And then that was  
20 Mr. Nordlicht accepting blame for the liquidity crisis.

21 A. Yes.

22 Q. And then the next paragraph says, "There seems to be a  
23 complete refusal to go out on a limb to go the extra mile to  
24 close." Then he says, "Shlomo Yehuda offered to help." Is  
25 that Mr. Shlomo Yehuda Rechnitz?

Mcc2Pla3

Bodner - Direct

1 A. I would think so.

2 Q. Then he says, "We have 35 more raised and *frum* people's  
3 money will be salvaged."

4 What was it that Mr. Nordlicht wanted you to do with  
5 that information?

6 A. He wanted me to solicit money from the group of people at  
7 the bottom of the list.

8 Q. What's the reference to *frum* people?

9 A. These are religious people in the community.

10 Q. Then he says, "The others on the list below, it's  
11 embarrassing to go to people and say you need help, but at this  
12 point that's where we are. Go to Izzy." Who is Izzy?

13 A. Izzy Englander.

14 Q. And Garfunkel?

15 A. George Garfunkel.

16 Q. Or Schroen, who is that?

17 A. Ruby Schroen.

18 Q. "And say I know you don't normally invest in funds, but I  
19 need a favor. We have this fund that is healthy, so much so  
20 that we are closing for a year because we don't want to dilute  
21 returns." And he continues, "If you invest in that, you would  
22 be doing me a big favor, and I really think you would do well."  
23 And then Mr. Nordlicht continues, "Why aren't we doing this,  
24 Dovid? For all you have done for *Klal Ysroil*."

25 What is the reference to *Klal Ysroil*?

Mcc2Pla3

Bodner - Direct

1 A. He is saying why shouldn't I ask these people for a favor  
2 since I was involved with them with all different types of  
3 charities for the *Klal Yisroil*, for the Jewish people.

4 Q. In other words, they should put money in to help the fund?

5 A. Yes, because the liquidity crisis that he caused.

6 Q. Then he says "you," meaning you, David Bodner, "owe it to  
7 your future *tzdakkas* to swallow pride and allow/urge people to  
8 help." What is that referencing?

9 A. Meaning if I lose money in the fund, I'm not going to be  
10 able to give charity or make charity parties or doing anything  
11 for charity anymore.

12 Q. And did you understand why -- what he meant by you should  
13 swallow your pride?

14 A. I never went out to raise money. My mother taught me that  
15 when you raise money and you make money for people, they never  
16 say thank you; and if you lose, all you hear is complaints. So  
17 I went with that motto, and I never looked to take money from  
18 people. He wanted me to swallow my pride and tell one of these  
19 people, I'm desperate, I need the money, please help me out,  
20 and everything will be okay.

21 Q. Did you go out and solicit either these people or other  
22 people to raise money at that time?

23 A. No, I did not.

24 Q. Let's turn to Plaintiffs' Exhibit 508. This starts with  
25 someone named Gabe Feder. Do you see that?

Mcc2Pla3

Bodner - Direct

1 A. Yes. I didn't read the e-mail yet. Do you want me to read  
2 it?

3 Q. Take a minute to read it, sure.

4 A. Yes.

5 Q. Okay. Who is Gabe Feder?

6 A. Gabe Feder at one time was a portfolio manager for PPVA.

7 Q. And what is Mr. Feder writing about?

8 A. Mr. Feder went on to work for Abraham Fruchthandler, and  
9 Abraham Fruchthandler had a sizeable investment in Platinum  
10 PPVA.

11 Q. And what is it that Mr. Feder is writing about?

12 A. He is writing about that Mr. Nordlicht, the way I  
13 understood him, Mr. Nordlicht didn't pay back the holdbacks.  
14 When a fund gives you withdrawal on your money, they hold back  
15 certain money. They don't give you your full withdrawal  
16 because they hold back certain money for to make sure that the  
17 accounting, everything is -- comes out the way that they  
18 figured it would come out. So from this letter it looks like  
19 the two charitable investors from Mr. Fruchthandler didn't get  
20 their holdback, and they had a letter prepared to send to their  
21 CC.

22 Q. And what did you have to do with this? Why were they  
23 copying this letter for you?

24 A. I was a friend of Mr. Fruchthandler and we respected each  
25 other, and they wanted me to go down and talk to



Mcc2Pla3

Bodner - Direct

1 Mr. Fruchthandler, to tell him the situation, that there is no  
2 liquidity, and please there should be no letters sent out or  
3 threats to the fund because of this.

4 Q. And did you speak with Mr. Fruchthandler?

5 A. Yes, I did.

6 Q. And how did -- how did the situation get resolved?

7 A. Mr. Fruchthandler was shocked. He said, I never sent a  
8 letter and this has nothing to do with me. I would never send  
9 a letter, and that was basically all I heard about it.

10 Q. Turn to Plaintiffs' Exhibit 368.

11 A. Yes.

12 Q. Do you recall the e-mail?

13 A. I don't think the e-mail was sent to me.

14 Q. Okay. Do you recall any particular problems in connection  
15 with the release agreement?

16 A. No. It looks like I sent it to my lawyer to look it over,  
17 to see that everything in the agreement was correct, and it  
18 sounds like the lawyer couldn't give an answer until 4 p.m. and  
19 Mark wanted to know before then

20 Q. Turn to Plaintiffs' Exhibit 372. This is an e-mail to Mark  
21 attaching this fax from Marcos Katz. Do you see that?

22 A. I don't see the fax.

23 Q. The next page.

24 A. I don't have it.

25 Q. You will get it.

Mcc2Pla3

Bodner - Direct

1           How did you get -- did you see this letter around the  
2 time that it was sent?

3       A. I think I did.

4       Q. And did you have any discussion with someone from the Katz  
5 family on or about the date that this letter came?

6       A. I was called by one of Mr. Katz's daughters, very  
7 frustrated that she couldn't reach Mr. Nordlicht, and her  
8 father wanted his money back. And she tried Mr. Huberfeld and  
9 she couldn't reach him. She called me and she told me about  
10 her frustration, and I told her that the only one who could  
11 take care of you is Mr. Nordlicht. I have no authority or no  
12 control over the fund and I can't help you.

13      Q. Turn to Defendant's Exhibit 312. I should ask you, with  
14 respect to Katz and the Katz letter, did you speak with  
15 Nordlicht?

16      A. I spoke to -- yeah, I definitely spoke to Nordlicht.

17      Q. And what did he tell you?

18      A. I went down to him and I told him -- I went down on 55th  
19 Street and I told him he has to talk to Mr. Katz. He can't  
20 avoid calls.

21           MR. LAUER: We don't want to see 312. It is not in  
22 evidence. That was a mistake. Sorry.

23           That completes the e-mails.

24      Q. One of the assets that PPVA was invested in was Black Elk.  
25 Did Mark Nordlicht consult with you before PPVA invested in

Mcc2Pla3

Bodner - Direct

1 Black Elk?

2 A. No, he did not.

3 Q. Were you aware in or about November of 2012 that an  
4 explosion had occurred on one of the offshore platforms at  
5 Black Elk?

6 A. Yes, I was aware.

7 Q. Did you have any discussion with anyone from PPVA  
8 concerning the impact the explosion might have on the value of  
9 PPVA?

10 A. I don't remember -- I remember that in the office they were  
11 talking about it, and what was said was that it's very  
12 unfortunate that a person died there, but they -- Black Elk has  
13 a tremendous amount of oil reserves.

14 MR. GLUCK: Objection.

15 Q. Do you recall --

16 THE COURT: I'm sorry. That objection, while it would  
17 have been proper had it been made in a timely fashion, was  
18 clearly waived. You can't wait until he finishes a  
19 multi-sentence answer and then say "objection." So overruled.

20 MR. GLUCK: I have to wait second, because my hearing  
21 is terrible, so I have to watch on the screen.

22 A. I should continue?

23 THE COURT: Well, the point is that the objection was  
24 one that could have been put to the question because it called  
25 for hearsay, because it was unspecific, and numerous other

Mcc2Pla3

Bodner - Direct

1 grounds, and you chose not to object. Overruled.

2 BY MR. LAUER:

3 Q. Did you speak with Uri Landesman about the explosion?

4 A. It's possible.

5 Q. Do you have any recollection of -- are you able to recall  
6 any specific conversation with anyone that you can identify  
7 with respect to the Black Elk asset?

8 A. Are you talking about the explosion.

9 Q. The explosion or the impact the explosion was thought to  
10 have.

11 MR. GLUCK: Objection.

12 THE COURT: So and the objection is based on?

13 MR. GLUCK: Compound question, vague.

14 THE COURT: Are you objecting -- oh, on compound?  
15 Okay. Compound and vague.

16 MR. GLUCK: And hearsay.

17 THE COURT: Hearsay I would overrule, only because it  
18 will be received for his state of mind but not for the truth of  
19 it. But we don't reach that because I agree with you it is  
20 compound.

21 Put another question.

22 BY MR. LAUER:

23 Q. Did anyone send you any information at the time or  
24 thereafter describing the impact, if any, that the explosion  
25 had on the valuation of Black Elk?

Mcc2Pla3

Bodner - Direct

1 A. No.

2 MR. GLUCK: Objection.

3 THE COURT: The objection is overruled because it was  
4 intended to elicit a negative. Go ahead.

5 BY MR. LAUER:

6 Q. What did you know about Black Elk at the time?

7 A. At which time are you referring to?

8 Q. In 2012.

9 A. I didn't know too much about it at all.

10 Q. After the explosion what did you know about Black Elk?

11 A. I remember in the office they were talking about millions  
12 and millions of reserves that Black Elk had.

13 Q. Do you have any specific recollection of talking to any  
14 specific individual at Black -- concerning Black Elk?

15 A. If I spoke to somebody, it would have been Uri Landesman,  
16 and he might have told me this, that there was --

17 THE COURT: No. Sustained.

18 Q. Okay. What about Golden Gate Oil? Did Mark Nordlicht  
19 consult with you before he acquired what came to be known as  
20 Golden Gate Oil?

21 A. No, he did not.

22 Q. Did you have any idea of the number of reserves, meaning  
23 how many millions of barrels of oil was in the ground at  
24 Golden Gate?

25 MR. GLUCK: Objection.

Mcc2Pla3

Bodner - Direct

1 A. No, I did not.

2 Q. Did you have any --

3 THE COURT: Whoa, whoa.

4 MR. LAUER: Sorry.

5 THE COURT: Again, because the -- it was intended to  
6 elicit a negative, the objection is overruled.

7 BY MR. LAUER:

8 Q. Did you have any of the details on the fair market value of  
9 Golden Gate?

10 A. No, I did not.

11 Q. Northstar, did you ever hear of the Northstar asset?

12 A. What years are you talking about?

13 Q. Any time. Did you ever hear that PPVA had an investment in  
14 something called Northstar?

15 A. Yes.

16 Q. Did you know what it was?

17 A. Not exactly.

18 Q. Did you know that it involved oil and gas?

19 A. Yes.

20 Q. Did you know the reserves?

21 A. No, I did not.

22 Q. Did Mr. Nordlicht consult with you before he created  
23 Northstar?

24 A. No, he didn't.

25 Q. What about something called Pedevco? Did you know what

Mcc2Pla3

Bodner - Direct

1 that investment was?

2 A. I wasn't sure what it was, but I think that might have been  
3 the investment that David Steinberg and Ezra Beren came to talk  
4 to me how to negotiate.

5 Q. Do you remember that was also an oil and gas development?

6 A. I remember it had something to do with oil and gas.

7 Q. Did anyone consult with you before Pedevco was acquired?

8 A. No.

9 Q. Did you have any of the details on operations or anything  
10 of that sort?

11 A. No details whatsoever.

12 Q. Another asset that's in this case we haven't heard too much  
13 about is something called the Michael Goldberg note. Did you  
14 know Dr. Michael Goldberg?

15 A. Yes, I did.

16 Q. And what was your understanding of his role within the  
17 fund?

18 A. My understanding was he was managing an asset called  
19 Navidea, a public company called Navidea.

20 Q. And what is Navidea?

21 A. I don't know.

22 Q. Do you know anything about a term sheet or a potential note  
23 that was supposed to be exchanged between Dr. Goldberg and  
24 PPVA?

25 A. No, I don't.

Mcc2Pla3

Bodner - Direct

1 Q. Did you have anything to do with negotiating it?

2 A. I don't recall having anything to do with any note.

3 Q. Then another asset is Desert Hawk. Do you remember what  
4 Desert Hawk was?

5 A. I have no idea what Desert Hawk is.

6 Q. I take it Mr. Nordlicht did not consult with you --

7 A. No.

8 Q. -- before acquiring it?

9 A. No, he didn't consult with me.

10 Q. So just a few wrap-up questions.

11 From the time that Platinum was started until you  
12 exited, did you have a responsibility to any aspect of PPVA's  
13 business?

14 MR. GLUCK: Objection.

15 A. I had no responsibility whatsoever.

16 Q. To your knowledge, was anyone at Platinum Management  
17 relying on you for anything?

18 MR. GLUCK: Objection.

19 THE COURT: No, I think he can answer that to his  
20 knowledge, given the fiduciary claim. Overruled.

21 A. No. Nobody was relying on me.

22 Q. Did you accept responsibility for any aspect of PPVA's  
23 business?

24 A. No, I never accepted any responsibility.

25 Q. Did you affirmatively tell Mark Nordlicht or Murray



Mcc2Pla3

Bodner - Direct

1 Huberfeld that you did not want to have responsibility or be  
2 involved in managing a fund?

3 A. Yes.

4 MR. GLUCK: Objection.

5 THE COURT: Well, did you tell that to both? each?  
6 separately? what? The question was compound. The question was  
7 did you affirmatively tell Mark Nordlicht or Murray Huberfeld  
8 that you did not want to have responsibility or to be involved  
9 in managing the fund? You may want to, counsel, rephrase the  
10 question.

11 MR. LAUER: Okay.

12 BY MR. LAUER:

13 Q. Did you affirmatively tell Mark Nordlicht that you did not  
14 want to have any responsibility at the fund?

15 A. I did.

16 Q. Did you tell Murray Huberfeld affirmatively that you did  
17 not want to have any responsibility at the fund?

18 A. Yes, I did.

19 Q. Did they accept that?

20 A. Yes, they did.

21 Q. Did you have any control over the fund?

22 A. I had no control whatsoever over the fund.

23 Q. Did you have any control over Platinum Management?

24 A. No, I did not.

25 Q. Did you have any control over Mark Nordlicht?

Mcc2Pla3

Bodner - Cross

1 A. No, I did not control Mark Nordlicht.

2 Q. Did you ever come to know that the PPVA valuations were  
3 fraudulently overvalued?

4 A. No, I did not.

5 Q. Did you ever see data that contradicted Mark Nordlicht's  
6 numbers for these assets?

7 A. No, I never saw any data whatsoever.

8 Q. Turning back to the December 2014, January '15 dinner,  
9 when -- after Mark Nordlicht told you to go home and stay at  
10 yeshiva, did you take your money out of the fund?

11 A. No, I did not.

12 Q. Did you continue to have confidence in Mark Nordlicht?

13 A. Yes, I did.

14 Q. Now, you had family money of \$40 million in the fund. Did  
15 you end up writing that off?

16 A. Yes, I did.

17 MR. LAUER: Thank you.

18 Pass the witness.

19 THE COURT: Cross-examination.

20 CROSS-EXAMINATION

21 BY MR. GLUCK:

22 Q. Good afternoon, Mr. Bodner.

23 A. Good afternoon.

24 Q. You knew that in 2016 the fund was in dire straits, is that  
25 right?

Mcc2Pla3

Bodner - Cross

1 A. I knew in 2016 that the fund had liquidity problems.

2 Q. Did you visit -- you visited Mr. Marcos Katz in Mexico  
3 twice then, didn't you?

4 A. I visited him once in Mexico and once in Acapulco.

5 THE COURT: By "Mexico," you mean Mexico City?  
6 Because last I checked Acapulco is in Mexico.

7 THE WITNESS: I meant Mexico City.

8 Q. How did you fly to Mexico?

9 A. I think we flew on a private plane.

10 Q. Who paid for the private plane?

11 A. I don't know.

12 Q. Mr. Parson, please call up PX 954.

13 Did you have access to a private plane?

14 MR. LAUER: We object. 403, your Honor.

15 THE COURT: I can't see this. If someone wants to  
16 blow it up or give me a copy, that would be helpful.

17 MR. GLUCK: I can build a foundation.

18 THE COURT: No, I don't even think it passes the test  
19 of relevance. Sustained.

20 BY MR. GLUCK:

21 Q. You signed a release giving up your management agreement  
22 prior to going to Mexico City and Acapulco, is that correct?

23 A. I'm not sure.

24 Q. Why would you go to Mexico City and Acapulco if you had  
25 already released your interest in Platinum Management?

Mcc2Pla3

Bodner - Cross

1 A. You -- could you show me the dates when I signed the  
2 release and when I traveled to Mexico City?

3 MR. GLUCK: Sure. Bring up the release, Mr. Parson,  
4 JX 76.

5 A. That was March.

6 Q. What was your role -- so does this refresh your  
7 recollection?

8 A. It shows me release. When did I fly to Mexico City and  
9 Acapulco?

10 Q. Let's call up PX 514. We will seek to admit it in  
11 evidence.

12 MR. LAUER: No objection.

13 THE COURT: Received.

14 (Plaintiff's Exhibit 514 received in evidence)

15 BY MR. GLUCK:

16 Q. Does this refresh your recollection?

17 A. I flew on 5/11 are you telling me? Can you give me the two  
18 dates? When did I fly? I'm a little confused here.

19 Q. Yeah, sure.

20 Why don't we bring up PX 516 which -- wait. Hold on.  
21 We will move this into evidence.

22 MS. SHEN: It's in.

23 MR. GLUCK: Why don't we bring up 516.

24 A. This says --

25 MR. GLUCK: We move this into evidence.

Mcc2Pla3

Bodner - Cross

1 A. This says I flew on May 16.

2 MR. GLUCK: This door's been wide open.

3 MR. LAUER: Same objection.

4 A. What?

5 THE COURT: Well, no, since the witness insisted on  
6 volunteering questions to counsel about when he flew, counsel  
7 for plaintiff was simply responding to the questions put by the  
8 witness, which waived any objection that might otherwise have  
9 been put, so the objection is overruled and 516 is received.

10 (Plaintiff's Exhibit 516 received in evidence)

11 BY MR. GLUCK:

12 Q. You flew to Mexico on May 16, didn't you?

13 A. Right. And when was the release given?

14 Q. March.

15 A. March. So you --

16 THE COURT: Excuse me. Can someone put up the  
17 release, first page of the release, which is Joint Exhibit 74?

18 MR. GLUCK: It's up on the screen.

19 A. So what was the question.

20 THE COURT: Excuse me. I'm about to put a question.  
21 It states, does it not, "This release agreement is made  
22 effective as of this 20th day of March 2016." Do you see that?

23 THE WITNESS: Yes.

24 THE COURT: That doesn't mean, does it, that that was  
25 the actual date it was signed, does it? It could have been

Mcc2Pla3

Bodner - Cross

1 signed earlier or later or whatever, right?

2 THE WITNESS: Could have been. I don't know.

3 THE COURT: So if either counsel wants to present the  
4 witness with any evidence of the date of actual signing, I will  
5 admit it, but I don't think it shows when the agreement was  
6 signed.

7 MR. GLUCK: Sure. I think we can go to the last page  
8 and then we will call up the defendant's exhibit, last page,  
9 please, or second to last page.

10 THE COURT: What does it show?

11 MR. GLUCK: Delivered and executed the agreement.

12 (Pause)

13 THE COURT: Near as I can tell—correct me if I am  
14 wrong—the dates of the signatures are not shown anywhere. But  
15 there was an e-mail earlier when Mr. Nordlicht is pressing  
16 Mr. Huberfeld for his signature. Why don't we put that back up  
17 on the screen for a minute.

18 MR. GLUCK: Mr. Parson, if you will, in a moment,  
19 please call up the Nordlicht exhibit.

20 THE COURT: So all we know from this -- that wasn't  
21 what I had in mind, but at least we know that the document was  
22 being exchanged on March 2.

23 All right. Anyway, I think, counsel, you should  
24 continue with your examination. I don't want to get lost on  
25 this.

Mcc2Pla3

Bodner - Cross

1           Having looked at these documents, is it your best  
2           recollection that you had signed the release before you went to  
3           Mexico?

4           THE WITNESS: Looking at the documents, it seems like  
5           that.

6           THE COURT: Okay.

7           BY MR. GLUCK:

8           Q. You went to Mexico on behalf of Platinum Management, didn't  
9           you?

10          A. I went on behalf of, if I'm not mistaken, it was a call  
11          that I have got from Yaacov Neeman who told me that Marcos Katz  
12          would like to talk to you.

13          Q. You made representations concerning stability of Platinum  
14          Management in Mexico, didn't you?

15          A. As stated before, it was two meetings. There was a meeting  
16          in Mexico and there was a meeting in Acapulco. In Acapulco, I  
17          made statements. Marcos Katz was looking to redeem his money.  
18          There was no liquidity whatsoever in the fund. There was not  
19          even \$5 in the checking account to my recollection. And Marcos  
20          Katz was looking to take out his \$15 million so Yaacov Neeman  
21          called me up and said I should please go to this meeting. He  
22          is going to meet me there. He came in from Israel, and he was  
23          going to meet me there. Because he understood when a fund has  
24          no money, you just can't get money when there is no money  
25          there, and also you can't take money ahead of other investors.

Mcc2Pla3

Bodner - Cross

1 So we met all together at Acapulco, and I tried to explain it  
2 to Mr. Katz. All I head heard from Mr. Katz was: I want my  
3 money. And I tried to explain to him, not once, twice.

4 Q. The fund didn't have \$5, but it could fly everyone down to  
5 Acapulco?

6 A. I don't know who paid for that. It might have been paid  
7 personally by one of the people in Platinum Management. I  
8 don't recall. It could be we all paid for it.

9 MR. GLUCK: Now we would like to move Plaintiff 954  
10 into evidence. Please call it up.

11 MR. LAUER: We object. Same objection as before.

12 MR. GLUCK: For the proposition Platinum Management --

13 THE COURT: Yeah, I understand. Received.

14 (Plaintiff's Exhibit 954 received in evidence)

15 BY MR. GLUCK:

16 Q. You consulted Mr. Levy about positions at the fund in  
17 advance of the meeting, didn't you?

18 A. No, I did not.

19 Q. Please call up Plaintiffs' Exhibit 423.

20 A. Do you have a question on this e-mail?

21 Q. You consulted Mr. Levy concerning the positions of the  
22 fund, didn't you?

23 A. That's not what I am reading here.

24 THE COURT: No, no, just the -- I think he's already  
25 answered that question. The question before was: "You



Mcc2Pla3

Bodner - Cross

1 consulted Mr. Levy about positions at the fund in advance of  
2 the meeting, didn't you?

3 "Answer: No, I did not."

4 MR. GLUCK: We would like to move Plaintiffs' Exhibit  
5 423 into evidence.

6 MR. LAUER: No objection.

7 THE COURT: Received.

8 (Plaintiff's Exhibit 423 received in evidence)

9 BY MR. GLUCK:

10 Q. Mr. Katz trusted you to oversee his investment, didn't he?

11 A. No.

12 Q. Plaintiffs' Exhibit 372.

13 THE COURT: What is the question.

14 Q. Isn't Mr. Katz saying he trusted you here?

15 A. I don't think Mr. Katz is pointing towards me. Mr. Katz  
16 had looked at me as a talmudical scholar, and he used to call  
17 me a *batlen*. A *batlen* in Hebrew means somebody who doesn't do  
18 anything and doesn't understand. He trusted Murray Huberfeld,  
19 who was in constant contact with him on a monthly basis.  
20 Whenever he came to New York he would meet with Murray. I had  
21 very, very infrequent meetings with him.

22 MR. GLUCK: Move to strike.

23 THE COURT: No, I think that was --

24 A. It's correct.

25 THE COURT: -- responsive. Overruled.

Mcc2Pla3

Bodner - Cross

1 BY MR. GLUCK:

2 Q. All right. You testified for Mr. Lauer that the specific  
3 liability in question when the release was being negotiated and  
4 you asked for an indemnity was that you might have a tax issue?

5 A. A gift tax issue.

6 Q. A gift tax issue.

7 A. Yes.

8 Q. Please call up PX 370. It is already in evidence.

9 Mark Nordlicht was saying that he couldn't personally  
10 be responsible for your and Mr. Huberfeld's misconduct, because  
11 he thought there was a gift tax issue.

12 A. I have no idea what Mark Nordlicht was thinking.

13 Q. That's your lawyer, Mr. Gabriel Hertzberg, isn't it?

14 A. He is sitting right there. You could talk to him.

15 Q. It says Katz, Bodner, and Huberfeld release?

16 A. Yes, it does.

17 Q. Gift tax issue.

18 A. That's what I went to him for, for my accountant told me  
19 that my gifting, the management, you are going to get charged  
20 tax. And I told Mark, I'm happy to do it, but I'm not  
21 interested in having a tax on a \$50 million gift or whatever it  
22 was worth plus the crude that I didn't take. What Mark was  
23 thinking about misconduct, I have no idea. This was not  
24 discussed with me.

25 You have another question?

Mcc2Pla3

Bodner - Cross

1 Q. Do you have anything further for your answer?

2 A. No, I don't have anything further --

3 THE COURT: Whoa, whoa, whoa.

4 BY MR. GLUCK:

5 Q. Plaintiff Exhibit 368. Excuse me 366.

6 You discussed this purported gift tax liability with  
7 Mr. Katz as well or was there something else?

8 A. Let me read the document a minute.

9 THE COURT: I'm sorry. I'm failing to see the  
10 relevance of the last two exhibits that were -- they are in  
11 evidence, but they are not addressed to this witness nor are  
12 they from this witness, so I'm not quite sure why they are  
13 being shown to the jury. So take it down. Thank you.

14 BY MR. GLUCK:

15 Q. You testified that you had about 40 million in the fund at  
16 the time it went down?

17 A. That's my recollection. I said between 37 million and  
18 above.

19 Q. PPVA and PPCO, is that right?

20 A. Correct.

21 Q. Other than the 10 million you seeded, do you have any  
22 recollection of specific additional investments that weren't  
23 incentive fee LP interests or incentive fees that you kept in  
24 the fund?

25 A. Yes.

Mcc2Pla3

Bodner - Cross

1 Q. What are those?

2 A. I had \$17 million of my foundation in the fund to my  
3 recollection. I had, if I'm not mistaken, either a million 250  
4 or two and a half million for my children in the fund. Then I  
5 had also -- what was it, 17, 27, 30, oh, and then I had for an  
6 endowment fund that I was responsible for was over \$3 million.  
7 And then I had -- it takes me to 33. And then I think I had  
8 some other monies between me and my wife in the fund.

9 Q. PPVA or PPCO?

10 A. Oh, PPLO, there was another fund called PPLO, where I think  
11 I had another \$3 million. Altogether in all the three funds, I  
12 had between 37 and \$40 million.

13 Q. Did you take out roughly 100 million in fees?

14 A. Not that I recall.

15 Q. Did you have any conversations with Mr. Nordlicht to the  
16 effect that you took out 100 million in fees?

17 A. Not that I can recall.

18 Q. Can I show you a document to refresh your recollection?

19 A. Yes, you could.

20 Q. Plaintiffs' Exhibit 424.

21 My question is, did you have any conversations with  
22 Mr. Nordlicht that.

23 (Court reporter confers)

24 Q. Did you have any conversations with Mr. Nordlicht to the  
25 effect that you had taken out 100 million from the fund

Mcc2Pla3

Bodner - Cross

yourself?

THE COURT: Counsel, come to the sidebar.

(Continued on next page)

Mcc2Pla3

Bodner - Cross

1 (At the sidebar)

2 THE COURT: So this again appears to be a document  
3 from one person to another person, neither of whom is  
4 Mr. Bodner, correct?

5 MR. GLUCK: That is correct.

6 THE COURT: I don't see how you get to show a witness  
7 something -- at the moment, and I think it's really stretching  
8 it. This might give rise to an inference upon an inference  
9 upon an inference that he had such a conversation, but on its  
10 face it doesn't remotely show that. And in any event, it is at  
11 best something for summation, not for cross-examination.

12 Now, I understand that defense counsel is in his  
13 potted plant mode of not objecting, but the Court has a  
14 responsibility to make sure that the jury is not misled. So I  
15 don't want anymore documents shown to the jury, whether they  
16 are in evidence or not, that are not documents that either (a)  
17 are from Mr. Bodner, (b) are sent to Mr. Bodner, or (c) on  
18 their face specifically refer to a conversation with  
19 Mr. Bodner. Okay?

20 MR. GLUCK: If the secretaries are in?

21 THE COURT: Pardon me.

22 MR. GLUCK: Albanese and --

23 THE COURT: I understand your point but, anyway, I  
24 think maybe we should take a lunch break at this point and we  
25 will continue thereafter.

Mcc2Pla3

Bodner - Cross

1 MR. GLUCK: Sure.

2 MR. LAUER: Thank you, your Honor.

3 (Continued on next page)

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Mcc2Pla3

Bodner - Cross

1 (In open court)

2 THE COURT: So ladies and gentlemen, counsel have  
3 forced me to give you your lunch break five minutes early. I  
4 protested vehemently, but they just overruled me with the force  
5 of their argument. So we will take an hour and five minutes  
6 and resume at 2:00.

7 THE WITNESS: Thank you very much, your Honor.

8 THE COURT: Mr. Bodner, you can step down.

9 (Continued on next page)

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Mcc2Pla3

Bodner - Cross

1 (Jury not present)

2 THE COURT: I'm going to give plaintiffs' counsel  
3 pretty much whatever time he wants on cross-examination. This  
4 is the most critical witness. But if you could give me a  
5 reasonably good estimate after lunch of how much it will be,  
6 just so we can plan the rest of the schedule.

7 Very good. We will see you in an hour and five  
8 minutes.

9 (Luncheon recess)

10 (Continued on next page)

MCCCpla4

Bodner - Cross

## AFTERNOON SESSION

2:08 p.m.

(Jury not present)

THE COURT: Plaintiffs' counsel was going to give me a ballpark around about how much.

MR. GLUCK: Ballpark is around 100 minutes, except for one issue. Towards the end of the examination, I'll ask for a sidebar regarding certain summary exhibits of certain meetings that I understand is contested, and if we don't get those in, I do have quite a lot of documents.

THE COURT: What intimidation. Anyway, let's bring in the jury.

I will get everyone a draft charge either tonight or early tomorrow, and assuming I get it to you tonight, we'll have a charging conference at the end of the day tomorrow. If I don't get it to you tomorrow, we'll figure out whether we want to do it tomorrow or Wednesday.

(Continued on next page)

MCCCpla4

Bodner - Cross

1 (Jury present)

2 THE COURT: Please be seated.

3 Counsel.

4 BY MR. GLUCK:

5 Q. Mr. Bodner, Mr. Nordlicht was routinely asking you to raise  
6 money, was he not?

7 A. It wasn't routinely. He asked me once in a while when he  
8 was in an investment situation.

9 Q. You stated earlier that he was always in need of you to  
10 raise investors for him, didn't you?

11 A. Yes, but I think he knew that I wasn't raising money.

12 Q. Murray Huberfeld was your partner for about 25 years?

13 A. More like 30 years, 30-something years.

14 Q. You talk to him every day or almost every day?

15 A. I talked to him often.

16 Q. Almost all the time; right?

17 A. Till around 2013.

18 Q. You continued to correspond with him and talk to him after  
19 2013, didn't you?

20 A. But not often.

21 Q. Not often?

22 A. No.

23 Q. You solicited a number of investors for PPVA?

24 A. No, I did not.

25 MR. GLUCK: Mr. Parson, PX 426.

MCCCpla4

Bodner - Cross

1 I seek to move this in evidence.

2 Q. Angela Albanese was your secretary; is that correct?

3 A. Yes, she was, and she was Murray's secretary.

4 Q. She would print and send emails on your behalf?

5 A. Yes, she would.

6 Q. Richard Geyser and Jenna Boyle, they're investors in PPVA,  
7 aren't they?

8 A. To my recollection, Richard Geyser worked at PPVA to raise  
9 money for them. I'm not sure he was an investor.

10 Q. You pitched them on behalf of PPVA, which is issue in this  
11 case, and then also PPLO which I believe is the other fund you  
12 mentioned; is that right?

13 A. I have no recollection. I don't know who Jenna Boyle and I  
14 have no recollection of pitching any of them.

15 MR. GLUCK: Please go to the first page, Mr. Parson.

16 Q. You would provide these investors with monthly letters;  
17 right?

18 A. Which investors are you talking about?

19 Q. Investors that you pitched.

20 A. I did not pitch investors for the fund.

21 Q. Mr. Geyser was a PPVA portfolio manager; right?

22 A. To my recollection, Mr. Geyser was -- worked for PPVA to  
23 bring money in. I don't remember him being a portfolio  
24 manager.

25 Q. You were well aware that PPVA had invested in Black Elk as

MCCCpla4

Bodner - Cross

1 far back as 2010; right?

2 A. No.

3 MR. GLUCK: Mr. Parson, Plaintiffs' Exhibit 476.

4 I'm sorry. 426, I move into evidence.

5 MR. LAUER: 401.

6 THE COURT: Well, I think 401 is very liberally  
7 construed. Overruled. Received.

8 (Plaintiff's Exhibit 426 received in evidence)

9 MR. GLUCK: Mr. Parson, Plaintiffs' Exhibit 476,  
10 please.

11 Seek to admit this into evidence.

12 MR. LAUER: No connection.

13 MR. GLUCK: It's from Mr. Huberfeld to Ms. Albanese to  
14 Mr. Bodner.

15 THE COURT: Well, right now, no foundation has been  
16 laid whatsoever. If you want to lay a foundation, then I'll  
17 consider it.

18 BY MR. GLUCK:

19 Q. MA2500, that's Mr. Huberfeld's email address, isn't it,  
20 Mr. Bodner?

21 A. I remember the email address Murray Huberfeld, not MA2500.

22 Q. This is one of Huberfeld's email addresses, isn't it,  
23 Mr. Bodner?

24 A. It's possible. I don't recall.

25 Q. He's sending you summaries of the Black Elk and China

MCCCpla4

Bodner - Cross

1 Horizon investments in 2010; right?

2 A. Could be sending it to Angela to print it out for somebody.  
3 I don't know. I don't have any recollection of seeing this  
4 document.

5 Q. He's sending it to both Ms. Albanese's email addresses,  
6 both at Centurion and at Platinum?

7 A. Yes. I have no clue what he was doing.

8 MR. GLUCK: We seek to move this into evidence.

9 MR. LAUER: Same objection.

10 THE COURT: Do you know who Greg Safiro was?

11 THE WITNESS: No, I don't.

12 THE COURT: Do I understand you don't know who the  
13 address, MA2500, who that belongs to?

14 THE WITNESS: No, I do not.

15 THE COURT: The objection is sustained.

16 MR. GLUCK: PX 478, please.

17 BY MR. GLUCK:

18 Q. Do you know who Mr. Martin Stern is?

19 A. Yes.

20 Q. Who is he?

21 A. Martin Stern is my brother-in-law.

22 Q. Mr. Martin Stern, an investor in Black Elk equity?

23 A. This, I don't know if he invested in Black Elk equity.

24 Q. BEE refers to Black Elk equity, doesn't it?

25 A. Yeah.

MCCCpla4

Bodner - Cross

1 THE COURT: Are you offering this?

2 MR. GLUCK: I'm about to build a foundation.

3 THE COURT: Very good.

4 Q. BEE, you were asked a question earlier about the email  
5 regarding your anxiousness over the Black Elk investors.

6 Do you recall BEE as Black Elk equity?

7 A. Yes.

8 Q. So Martin Stern is your brother-in-law and he invested in  
9 Black Elk equity; right?

10 A. It seems like that from the email.

11 Q. And you brought him in?

12 A. No.

13 Q. Who brought in your brother-in-law, other than you?

14 A. Could have been Murray Huberfeld. It could have been  
15 somebody else. Richard Geyser knew a lot of the people that I  
16 knew. I have no idea.

17 MR. GLUCK: And now if you go, Mr. Parson, to the top,  
18 top email.

19 Q. And you were consulted on the rollover or repo of  
20 Mr. Stern's investment in Black Elk equity, weren't you?

21 A. I don't recall this at all.

22 MR. GLUCK: This email I seek to move into evidence.

23 MR. LAUER: Objection.

24 THE COURT: Sustained.

25 Q. Now, as building a little more foundation, it says to

MCCCpla4

Bodner - Cross

1 Murray Huberfeld AOL.

2 Do you see that on the second email?

3 A. Yes.

4 Q. And at the top, it just says MA2500@aol. That was Murray  
5 Huberfeld's AOL address, wasn't it?

6 A. I mean, it looks like that.

7 MR. GLUCK: Now, could you please return to the prior  
8 exhibit, Mr. Parson, exhibit 476.

9 Q. With the foundation that MA2500 is Mr. Huberfeld, he is  
10 sending you this Black Elk investment summary investment  
11 thesis, isn't he?

12 MR. LAUER: Objection.

13 THE COURT: Well, let me ask you this: In this email,  
14 there are two addresses for Ms. Albanese.

15 Do you see that at the top?

16 THE WITNESS: Yes.

17 THE COURT: Now, one of them refers to Centurion. She  
18 also worked for Mr. Huberfeld, yes?

19 THE WITNESS: Correct.

20 THE COURT: So something sent to the Centurion address  
21 presumably had something even who was sent from Mr. Huberfeld  
22 was simply an exchange related to the two of them and Huberfeld  
23 as far as one can ascertain; is that fair?

24 THE WITNESS: That's fair to ascertain.

25 Also, my email that she used for me was BodnerAng. In



MCCCpla4

Bodner - Cross

1 2010, I don't recall her using these emails. If something was  
2 sent to me, it was sent to BodnerAng.

3 THE COURT: I'm still sustaining the objection.

4 MR. GLUCK: Mr. Parson, Plaintiffs' Exhibit 430,  
5 please.

6 BY MR. GLUCK:

7 Q. What was Mr. Small's role at PPVA?

8 A. I think he was a portfolio manager.

9 Q. Was he in charge of the Black Elk investment?

10 A. I think he worked together with David Levy. I'm not sure  
11 exactly on what he worked.

12 Q. Was he convicted of fraud in connection with the Black Elk  
13 subordination?

14 A. That's what I read in the newspapers.

15 MR. GLUCK: Now go to the front page, please.

16 Q. See how it says on the subject matter, conference room, on  
17 the "Re:" line, "conference."

18 A. Could you light it up.

19 MR. GLUCK: Could you please, Mr. Parson, line up one  
20 of the subject lines.

21 Q. Do you see on the "Re:" line, "confirm."

22 A. Yes.

23 Q. You testified earlier that there was a fourth floor and  
24 then there was a floor --

25 A. 54th.

MCCCpla4

Bodner - Cross

1 Q. 54th floor. The conference rooms for Platinum they were on  
2 the 54th floor; right?

3 A. The conference room, Platinum on the 4th had its own  
4 conference room also. As a matter of fact, I think they had  
5 two conference rooms.

6 Q. If you were to take a meeting, which conference room would  
7 you go to?

8 A. Usually, I would use the 54th floor.

9 Q. That's where you sat.

10 Do you have a recollection of who Shlomo Kalish is?

11 A. It could have been a charity that David Levy wanted me to  
12 meet with this gentleman. Either it could have been a charity  
13 or a deal that he wanted me to see.

14 Q. That is something that you would have been doing with  
15 Daniel small?

16 A. I have no idea if Daniel Small was that at this meeting.

17 Q. Well, who was Karen Lau?

18 A. Karen Lau was Mark Nordlicht's secretary.

19 Q. Who is Rene Trotter?

20 A. Her, I don't know.

21 Q. Excuse me?

22 A. I don't know.

23 Q. This is an investor meeting; right?

24 A. This is an investor meeting?

25 Q. Correct.

MCCCpla4

Bodner - Cross

1 A. Not that I know of.

2 MR. GLUCK: Plaintiffs' Exhibit 479, please.

3 Sorry. We would like to admit this into evidence,  
4 your Honor.

5 It's in evidence.

6 MR. LAUER: Objection. No connection.

7 MR. GLUCK: It's in evidence.

8 Plaintiffs' Exhibit 479, please.

9 THE COURT: I'm sorry. Wait a minute. So is 479 in  
10 evidence or not?

11 MR. GLUCK: 430, which is presently on the screen, is  
12 in evidence.

13 THE COURT: Well, is that in evidence or not?

14 MR. GLUCK: It is.

15 THE COURT: Okay. I thought you just --

16 MR. GLUCK: I made a mistake as to whether it was in  
17 evidence.

18 THE COURT: Okay. Go ahead.

19 MR. GLUCK: Now please call up 479, Mr. Parson,  
20 Plaintiffs' Exhibit 479.

21 BY MR. GLUCK:

22 Q. Let me ask you, to lay some foundation, this is already in  
23 evidence.

24 Mr. Bernie Fuchs, he was an investor in PPVA?

25 A. Yes, he was.

MCCCpla4

Bodner - Cross

1 Q. Who brought him in?

2 A. Abe Biderman.

3 Q. How much did he invest in PPVA?

4 A. I don't know.

5 Q. You told him that PPVA was your fund; right?

6 A. Never told him such a thing.

7 Q. You told him that you were the principal of the fund;  
8 right?

9 A. Never told him such a thing.

10 Q. You told him that you would look after his investment;  
11 right?

12 A. I never told him such a thing.

13 MR. LAUER: We object to the document on the screen.  
14 No connection.

15 MR. GLUCK: I'm just about to build a foundation.

16 THE COURT: All right.

17 Q. Dovid, that's you; right?

18 A. It's possible it's me.

19 Q. And Mr. Landesman, he's a Platinum Management employee;  
20 right?

21 A. Mr. Landesman was the president of Platinum Management.

22 Q. And he was in charge of investor relations?

23 A. And he was in charge, he did investor relations.

24 Q. And he had to suggest to you to give Bernie Fuchs, a major  
25 investor, about a Black Elk update?

MCCCpla4

Bodner - Cross

1 MR. LAUER: Objection. It's not what it says.

2 MR. GLUCK: I'll read what it says.

3 THE COURT: I'm sorry. He was just asking him a  
4 question. I don't know that he was tying to the exhibit or  
5 not, it was an independent question. But put another --

6 MR. GLUCK: I'll put another question.

7 Q. Mr. Landesman suggested to you that Platinum give Bernie  
8 Fuchs, a Platinum investor, a Black Elk update; right?

9 A. I do not remember that, having a discussion with Bernie  
10 Fuchs a Black Elk update.

11 Q. And you knew that Black Elk had just exploded; right?

12 A. It says that this was sent December 11th. I don't remember  
13 exactly the date for the explosion.

14 Q. You knew that Black Elk had just exploded on November 15th;  
15 right?

16 A. I knew it exploded, yes.

17 Q. And --

18 A. I would think Bernie also found out about it then because  
19 it was in all the newspapers.

20 Q. And Mr. Landesman needed to get your comfort with him  
21 providing a Black Elk update to major investor Bernie Fuchs?

22 A. I don't remember such, having a discussion like this with  
23 Bernie Landesman at all.

24 THE COURT: Are you denying that it occurred or are  
25 you simply saying you don't have a memory one way or the other?

MCCCpla4

Bodner - Cross

1 THE WITNESS: I don't have a memory of Bernie  
2 Landesman having to ask me to give Bernie Fuchs an update of  
3 Black Elk.

4 THE COURT: So that the jury can evaluate that, what  
5 I'm unclear is, are you saying I don't have the memory one way  
6 or the other, it could have happened, but I don't know or are  
7 you saying my best memory is it did not happen?

8 THE WITNESS: My best memory that something like this  
9 didn't happen because --

10 THE COURT: Okay. You answered.

11 BY MR. GLUCK:

12 Q. And the reason Mr. Landesman would have needed to check  
13 with you before giving major investor Bernie Fuchs a Black Elk  
14 update was because PPVA had so much exposure to Black Elk, and  
15 you knew that, too; right?

16 A. No, I didn't think that PPVA had any exposure with  
17 Black Elk. I was told after the blowup that there's a  
18 tremendous amount of reserves and it was unfortunate somebody  
19 died, and nothing changed in the company itself, except one  
20 platform that blew up. 800, that's what I was told.

21 Q. You didn't think that PPVA had any exposure to Black Elk?

22 A. I think they had a legal exposure maybe from the family  
23 suing for the person that was killed. More than that, I didn't  
24 know that they had any exposure in the company itself.

25 MR. GLUCK: Plaintiffs' Exhibit 417.

MCCCpla4

Bodner - Cross

1 Q. You knew that a number of investors, including your  
2 brother-in-law, had invested in Black Elk; right?

3 MR. LAUER: Objection.

4 THE COURT: Well, the question is you knew that a  
5 number of investors, including your brother-in-law, had  
6 invested in Black Elk; right?

7 What's the ground of the objection?

8 MR. LAUER: There's no foundation. It hasn't been  
9 established that he knew.

10 THE COURT: He's asking him a question.

11 MR. LAUER: All right.

12 THE COURT: This question stands alone regardless of  
13 anything on the screen.

14 So, did you know that a number of investors, including  
15 your brother-in-law, had invested in Black Elk?

16 THE WITNESS: We knew a number of investors invested  
17 in Black Elk. I was very surprised when I seen the email that  
18 spoke about my brother-in-law. Him, I did not know that he  
19 invested in Black Elk.

20 BY MR. GLUCK:

21 Q. Your brother-in-law, where does he live?

22 A. Today, he lives in Lakewood, New Jersey.

23 Q. Then?

24 A. I think then, he lived in Monsey, New York.

25 Q. Not in Chicago?

MCCCpla4

Bodner - Cross

1 A. No, he did not live in Chicago. Maybe that's a Martin  
2 Stern from Chicago, not my brother-in-law.

3 MR. GLUCK: Let's call up Plaintiffs' Exhibit 429.

4 Q. You attended investor pitch meetings with Mr. Landesman in  
5 Chicago as a blitz; right?

6 A. I attended meetings for what?

7 Q. You attended investor pitch meetings in Chicago with  
8 Mr. Landesman; right?

9 A. I have no recall about that.

10 Q. Who's Bob Collins?

11 A. Bob Collins owned seats on the exchange. As I said earlier  
12 in my testimony, I was a trader on the exchange of the  
13 Chicago -- the name of his companies was Collins, and I used to  
14 have an account there and trade there, and I was friendly with  
15 Bob Collins. I do not remember meeting him in a blitz meeting  
16 in Chicago about Platinum. I used to speak to him on the phone  
17 and when he came to New York, once in a while -- I think maybe  
18 once or twice, we got together to talk about trading, not about  
19 Platinum.

20 Q. You don't remember?

21 A. No, I do not remember at all meeting him at a meeting for  
22 Platinum.

23 MR. GLUCK: Move to admit this into evidence.

24 MR. LAUER: Objection. Lack of connection.

25 THE COURT: Sustained.



MCCCpla4

Bodner - Cross

1 MR. GLUCK: PX 477, Mr. Parson.

2 Q. Who is Mr. Aaron Wolfson?

3 A. Mr. Aaron Wolfson is -- how should I describe him? He's a  
4 wealthy individual, very charitable. He comes from a family  
5 where I knew his father and his brother.

6 Q. What is your connection to Mr. Aaron Wolfson?

7 A. We did a lot of charity together. Also, when Centurion was  
8 started, we met with his father, myself and Mr. Huberfeld, and  
9 his father wanted to seat the fund.

10 Q. Banyan, that's one of those one-off projects; right?

11 MR. GLUCK: Mr. Parson, could you highlight Banyan.

12 Q. Banyan was one of the one-off projects?

13 A. I think -- I don't remember. Maybe you could -- I don't  
14 remember exactly what Banyan was. Could you tell me a little  
15 bit about it?

16 Q. Did Uri Landesman make you call Aaron Wolfson on Banyan and  
17 Black Elk in 2012?

18 A. It's possible that Uri Landesman asked me to call Aaron  
19 Wolfson, since I was very friendly with him, to set up a  
20 meeting for himself with Aaron Wolfson. Aaron Wolfson was a  
21 very, very busy person. He was managing over --

22 THE COURT: You've finished your answer.

23 Q. After the Black Elk explosion, it was an all-hands-on-deck  
24 situation at Platinum, wasn't it?

25 A. What do you mean by hands on deck?

MCCCpla4

Bodner - Cross

1 Q. Do you understand what all hands on deck means?

2 A. No, I don't.

3 Q. After the Black Elk explosion, it was a time of urgency and  
4 crisis at Platinum, wasn't it?

5 A. Yes.

6 Q. And you and the other Platinum Partners formulated a plan  
7 to create the Black Elk Opportunities Fund; is that right?

8 A. That's not true.

9 MR. LAUER: Objection.

10 A. That's not true.

11 MR. LAUER: Objection.

12 THE COURT: I'll overrule the objection. The answer  
13 has been given.

14 Q. After the Black Elk explosion, the Platinum Partners  
15 created Black Elk Opportunities Fund?

16 A. I don't know who created Black Elk Opportunities Fund. I  
17 wasn't -- they had a meeting, I wasn't spoken to about creation  
18 of a fund like this. Afterwards, I found out that they were  
19 raising money for Black Elk. How, where, and when, I wasn't  
20 aware of it.

21 Q. You weren't aware ahead of time?

22 A. No, I didn't. Ahead of time meaning when? When it was  
23 created? No.

24 MR. GLUCK: Move 477 into evidence, please.

25 MR. LAUER: No connection.

MCCCpla4

Bodner - Cross

1 THE COURT: So not only is there no meaningful  
2 connection to the witness, and that would be sufficient to  
3 sustain the objection, but also it includes a great deal of  
4 hearsay, and that's a further ground for the objection. And  
5 also it is filled with earlier messages that seem to have no  
6 connection, even on their face, let alone remotely, with any  
7 issue relating to this witness or this case.

8 So, on all those grounds and about a dozen others, the  
9 objection is sustained.

10 Q. You, Mr. Bodner, received fees from the Black Elk  
11 Opportunities Fund, didn't you?

12 A. I don't recall. I received fees in any -- that was the  
13 deal when we structured Platinum, I was going to get fees from  
14 any fund that has to do with Platinum.

15 Q. So you don't recall receiving fees from the Black Elk  
16 Opportunities Fund, but you do recall there being a general  
17 deal in relation to you receiving fees of anything that has to  
18 do with Platinum?

19 A. I remember when we structured the deal with Mark Nordlicht  
20 and Murray Huberfeld way back, we were partners in any hedge  
21 fund fees that would come in.

22 MR. GLUCK: On this one, I think it's fair ground to  
23 refresh your recollection. So could you call PX 497,  
24 Mr. Parson.

25 Q. My only question is, did you receive \$25,147.42 from

MCCCpla4

Bodner - Cross

1 Black Elk Opportunities Fund?

2 MR. LAUER: Objection. There's no connection.

3 THE COURT: He's not offering the exhibit. The  
4 question was, having looked at this exhibit, which is not in  
5 evidence, does that refresh your recollection that you  
6 received, we'll start with monies in connection with Black Elk  
7 Opportunities Fund?

8 THE WITNESS: Definitely looks like that from the  
9 document.

10 THE COURT: And if I understand, while you don't have  
11 a specific memory with respect to that particular fund, you did  
12 have an understanding that, in connection with the Black Elk  
13 investment, you would receive monies from related entities,  
14 yes?

15 THE WITNESS: My understanding was when we made the  
16 deal that any fund, hedge fund that's formed by Mark Nordlicht,  
17 either Platinum Credit Fund, Platinum Value Fund, Platinum  
18 Liquid Fund, those three funds, I remember. PPLO, PPCA. My  
19 understanding was at the end of the year, Joe SanFilippo came  
20 up to my office and he would show me how much fees I made on  
21 each fund. This, I don't remember in particular, but the  
22 document says --

23 THE COURT: The document is not in evidence.

24 But there is nothing inconsistent with your overall  
25 arrangement and such a distribution being made?

MCCCpla4

Bodner - Cross

1 THE WITNESS: Correct.

2 MR. GLUCK: You can take that down now, Mr. Parson.

3 BY MR. GLUCK:

4 Q. You told Mr. Fuchs to go out and solicit investors for the  
5 Black Elk Opportunities Fund, didn't you?

6 A. Totally false.

7 Q. You, yourself, solicited investors for the Black Elk  
8 Opportunities Fund, didn't you?

9 A. No, I didn't.

10 MR. GLUCK: Mr. Parson, please call up  
11 Plaintiffs' Exhibit 482.

12 Q. Who are Bob and Allen Cohen?

13 A. Bob and Allen Cohen are two people that I know. They own  
14 an optical chain. It looks like here, like the other emails  
15 you showed me, there's a list of names that I should be going  
16 to to raise money for Black Elk.

17 Q. Sol Werdiger?

18 A. A friend of mine.

19 Q. Ezra Erani?

20 A. Another acquaintance.

21 Q. Adam Sokol?

22 A. Do not know who he is.

23 Q. Tom Deutch?

24 A. Do not know him.

25 Q. Harari?

MCCCpla4

Bodner - Cross

1 A. I know who he is, but he was a friend of Murray Huberfeld.

2 Q. Martin Stern?

3 A. I don't know if it's my brother-in-law. It doesn't make  
4 sense because my brother-in-law was not a rich man. I don't  
5 know why they would of solicit him.

6 Q. Steven Steinheimer?

7 A. I have no idea.

8 Q. Jonathan Mayer?

9 A. Jonathan Mayer is a brother-in-law of mine.

10 Q. You were asked to contact the persons highlighted in  
11 yellow, weren't you?

12 A. Not Adam Sokol.

13 Q. Not Adam Sokol. You did contact the persons highlighted in  
14 yellow to pitch them on the Black Elk Opportunities Fund?

15 A. No, I did not.

16 Q. You deny it?

17 A. I deny it 100 percent. I did not contact anybody to put  
18 money into Black Elk.

19 MR. GLUCK: All this we'll move into evidence.

20 MR. LAUER: We object.

21 THE COURT: Well, I think this one comes in under the  
22 coconspirator exception. So it will be received.

23 (Plaintiff's Exhibit 482 received in evidence)

24 MR. GLUCK: You can take that down, Mr. Parson.

25 Q. Now, after the Black Elk Opportunities Fund had been

MCCCpla4

Bodner - Cross

1 raised, you received data and information suggesting that  
2 PPVA's common equity in Black Elk was near or actually  
3 worthless, didn't you?

4 A. No, I did not.

5 MR. GLUCK: Mr. Parson, please call up PX 554.

6 This we seek to admit into evidence or it may already  
7 be?

8 MS. SHEN: It's already in.

9 Q. So who is Seaport?

10 A. I have no idea.

11 Q. You don't know their investment advisor?

12 A. No, I don't.

13 Q. You received their report for Black Elk from Mr. David  
14 Steinberg, didn't you?

15 A. No.

16 Q. Sent to Ms. Albanese?

17 A. As I said before, Ms. Albanese was Murray's and my  
18 secretary. And my email was BodnerAng.com. It was not  
19 Angela@Platinum. So this could have been received to Murray.  
20 Uri Landesman was in the office next to me. It's possible she  
21 received it to give to Uri Landesman. I have no idea. I do  
22 not know who this person is. I know David Steinberg.

23 Q. I'm glad you brought up that BodnerAng@gmail.com email  
24 address. When was that in use?

25 A. I think that was in use when we started.

MCCCpla4

Bodner - Cross

1 Q. You think that was in use when you started?

2 A. Or later on. I don't remember. That was the email I  
3 remember her using with me a lot.

4 Q. Ms. Albanese set up that email address so that you could  
5 engage in correspondence off the Platinum server once the SEC  
6 started spending a few months in the office, didn't she?

7 MR. LAUER: Objection.

8 A. Not to my knowledge.

9 MR. LAUER: Wait.

10 THE COURT: There's an objection. I have to rule.

11 Sustained.

12 Q. You don't know that Ms. Albanese set up the BodnerAng  
13 gmail.com --

14 THE COURT: The problem with the question is counsel  
15 is, in effect, testifying. If you want to inquire as to the  
16 date, that's fine, but not what you're --

17 Q. The BodnerAng@gmail.com was set up after 2014, wasn't it?

18 A. I don't know.

19 Q. You don't know why it was set up?

20 A. No. I remember that was the email that I used to tell  
21 people if they wanted to send me an email, they should send it  
22 to.

23 Q. You didn't instruct Ms. Albanese to set up an email off the  
24 Platinum server so your Platinum-related correspondence  
25 couldn't be seen?



MCCCpla4

Bodner - Cross

1 A. No, absolutely not.

2 Q. So you deny receiving this Seaport report?

3 A. I don't remember receiving it.

4 Q. I think you testified that you would have partner meetings  
5 for Platinum about four times a year, once a quarter?

6 A. Usually three, four times a year.

7 Q. At those partner meetings, you were provided with detailed  
8 information on all of Platinum's positions; right?

9 A. No.

10 Q. And you, in fact, instructed Mr. Nordlicht and others to  
11 prepare detailed summaries of Platinum's positions so that you  
12 could hear them at the meeting; right?

13 A. I did not instruct Mr. Nordlicht to prepare --

14 Mr. Nordlicht used to come with a small piece of paper with the  
15 positions. He never showed us. To my recollection, I never  
16 saw any backups on any of these positions. The meetings were  
17 focused on liquidity and liquidity only, how much money he  
18 needs and what pressure he's under if he doesn't get the money.

19 MR. GLUCK: Mr. Parson, please bring up PX 377, which  
20 is already in evidence.

21 Q. Is it your testimony that two copies of positions for PPCO  
22 and PPVA, quote-unquote, was a handwritten piece of paper that  
23 you were asking Mr. Nordlicht to draft?

24 A. It's possible. I don't remember or I don't see anything  
25 else showing that I asked him to bring positions or copies of

MCCCpla4

Bodner - Cross

1 positions. There must have been a special reason -- if I did  
2 tell him to do this, there must have been a special reason in  
3 2013, which I can't remember why I would ask him to bring  
4 copies of positions. That's not how the meetings worked. The  
5 meetings worked, they were a dinner, he brought a small little  
6 scrap paper together, on it he wrote this position, this  
7 position, this position, we have 10 positions here, this is how  
8 much money we need and he's under tremendous pressure to meet  
9 withdrawals and we must bring money in. That was the crux of  
10 every meeting we had.

11 Q. Did you find those pieces of paper to be useful?

12 A. He didn't give me the pieces of paper. He held it by him  
13 and read off it.

14 Q. Why would you be reminding him to bring those position  
15 statements --

16 A. It says two copies, there must have been a reason. I don't  
17 remember in 2013 why I would ask him to bring two copies of  
18 positions. I never asked him anytime else if this is correct,  
19 I don't remember why I would ask him in 2013 to bring them.  
20 Maybe Uri needed it for marketing, maybe somebody needed it. I  
21 have no idea.

22 MR. GLUCK: Mr. Parson, PX 523, please.

23 We seek to move this into evidence.

24 Q. And that's not a BodnerAng Gmail address at the top, is it?

25 A. No, that's another email that she had for me. Rendob is

MCCCpla4

Bodner - Cross

1 Bodner is backwards. 18@ -- I think that was the email -- if  
2 she had to send me an email, I think that's where she sent it  
3 to.

4 Q. Mr. Landesman is asking for Fuchs' feedback on fairly  
5 detailed positions so that he, in turn, can be prepared to  
6 present the partners dinner next week, isn't it?

7 A. I think he was asking Mr. Fuchs about China Horizon.

8 Q. But Mr. Landesman was trying to set up for a partners  
9 dinner the next week, wasn't he?

10 A. I think Shaw listened to the 1 o'clock call today is asking  
11 about an investors call. I'm just telling you the way I'm  
12 reading it. And if you are able, would like your feedback --  
13 meaning Bernie Fuchs' feedback about the call. And then he --  
14 the second thing he wrote was he's trying to set up a partners  
15 dinner for next week asking Mr. Fuchs if he'll be available.

16 Q. And Mr. Landesman was so interested in making sure that you  
17 knew that he had asked Mr. Fuchs to gather this information  
18 that he actually sent it to Ms. Albanese, who then sent it to  
19 your -- well, that's your personal email address, isn't it?

20 MR. LAUER: Objection.

21 THE COURT: Sustained.

22 Q. Mr. Landesman then forwarded the conversation he had with  
23 Mr. Fuchs to Ms. Albanese for your attention, didn't he?

24 A. If we could read the email a little slow, I think it says  
25 over here --

MCCCpla4

Bodner - Cross

1 THE COURT: Well, wait a minute.

2 Are you offering this?

3 MR. GLUCK: We are offering this into evidence.

4 THE COURT: Any objection?

5 MR. LAUER: No objection to the document.

6 THE COURT: Received.

7 (Plaintiff's Exhibit 523 received in evidence)

8 A. The way I'm reading it is Uri Landesman sent an email to  
9 Angela. Then it says Bernie Fuchs sent an email to Uri, and he  
10 wrote that he's available Monday or Thursday. At 10:57 a.m.,  
11 Uri Landesman wrote to Bernie Fuchs, sure. Listen to the  
12 1 o'clock call today, which I would think would mean the  
13 investor call that Platinum had with their investors. He's  
14 asking Mr. Fuchs if you are able, would like your feedback.  
15 Please tell me what you thought about the investors call. And  
16 then he told him, also, he's trying to set up a partners dinner  
17 for next week, meaning are you going to be back next week from  
18 where you're going. And then the next thing he wrote was, have  
19 China Horizon board tomorrow, Bernie is saying, we'll try to  
20 meet before 12:00. If I can't, let's talk China marketing on  
21 Monday. He's telling Uri Landesman we'll talk about marketing  
22 China Horizon on Monday and see you tomorrow.

23 THE COURT: Well, as is often common with emails,  
24 isn't this actually in reverse chronological sequence? So if  
25 you look at the bottom, it says on August 6th, 2014, at 10:40

MCCCpla4

Bodner - Cross

1 a.m., Uri Landesman wrote. And then if you look right above  
2 that, there's a message from Mr. Fuchs on August 6th at 10:53  
3 a.m. And then if you look right above that, there is a message  
4 from Mr. Landesman at 10:57 a.m. And if you look right above,  
5 there's a message for Mr. Fuchs at 11:06 a.m., et cetera, et  
6 cetera. Right? So the chronology is starting at the bottom,  
7 yes?

8 THE WITNESS: It sounds to me like that. But I think  
9 I read the email correct --

10 THE COURT: I'm not raising that one way or the other.  
11 I'm just saying, so the jury is clear, that the order of this  
12 is starting at the bottom going to the top.

13 BY MR. GLUCK:

14 Q. So the bottom email from Bernard Fuchs is August 6th, 2014  
15 at 10:53 a.m. Do you see that?

16 A. Yes.

17 Q. And Mr. Fuchs responds same day, 10:57 a.m.

18 A. Yes.

19 Q. And then he responds again at 11:06 a.m. Do you see that?

20 MR. LAUER: Objection. It's just not the way it  
21 reads.

22 THE COURT: I agree. Sustained.

23 THE WITNESS: Excuse me, your Honor.

24 MR. GLUCK: Excuse me. Uri Landesman wrote at 10:57.

25 THE COURT: The witness needs to take a break.

MCCCpla4

Bodner - Cross

1 THE WITNESS: Just for two minutes.

2 THE COURT: The jury can stay here because we can talk  
3 about the schedule while the witness is taking a break.

4 So, ladies and gentlemen, I was going to mention this  
5 at the end of the day. I am still hopeful that the testimony  
6 will be completed tomorrow, but because of a few delays we've  
7 had, it may go into Wednesday. Counsel and I totally agree  
8 that's the worst case, it will be over by Wednesday, and we'll  
9 try to do better than that, but I can't guarantee it. Then,  
10 worst case, Thursday morning, you'll have closing arguments  
11 from counsel and my instructions of law. So the case will be  
12 yours starting, worst case, after lunch on Thursday. I'm  
13 hoping that we can do better than that, but I wanted to give  
14 you the worst case scenario.

15 Then, of course, once the jurors -- it's up to you,  
16 you can take five minutes, you can take five days, I wouldn't  
17 recommend taking 50 days, but that's up to you.

18 So, I just wanted to give you that schedule.

19 Tomorrow, we will sit a full day from 9:30 to 4:30,  
20 and we are going today until 4:30. So, hopefully, the witness  
21 will be here.

22 I will mention one other thing, just so you're aware  
23 of it, I think it's already obvious that this case centers on  
24 whether or not the Platinum assets were overvalued and whether  
25 Mr. Bodner knew that and whether he participated in concealing

MCCCpla4

Bodner - Cross

1 that or whatever. It has nothing to do, in terms of any claim,  
2 with the liquidity problem. The liquidity problem was - I  
3 assume you understand by now - they didn't have enough money to  
4 pay the immediate demands for money that they were getting, and  
5 that was a serious problem, but there's no claim in this case  
6 that that is part of any fraud or any allegation of misconduct.  
7 The misconduct, if there was any, centers totally on the  
8 question of overvaluation.

9 I'm running out of things to talk about.

10 MR. LAUER: Your Honor, while we're waiting for the  
11 witness, may we approach the bench for a moment?

12 THE COURT: Sure.

13 (Continued on next page)  
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MCCCpla4

Bodner - Cross

1 (At the sidebar)

2 MR. LAUER: Your Honor, until this morning's ruling on  
3 coconspirator, the evidentiary issue of coconspirator exception  
4 didn't impart any substantive issue. Now that you've made this  
5 ruling, which we accept, that coconspirator is, in effect, a  
6 merits-related claim. I would respectfully ask the Court,  
7 obviously the Court is free to sustain objections or overrule  
8 objections, but to say coconspirator exception, now that we're  
9 on the frontier of this new phenomenon is somewhat prejudicial.

10 THE COURT: Okay. So I'll use another term.

11 MR. LAUER: Thank you.

12 THE COURT: Maybe we'll call it the controversial  
13 exception. We'll figure out something. That's fair enough.

14 MR. LAUER: I appreciate it, Judge.

15 (Continued on next page)

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Mcc2Pla5

Bodner - Cross

1 (In open court)

2 BY MR. GLUCK:

3 Q. Returning to this e-mail, Mr. Bodner, Uri Landesman then  
4 sends an e-mail at 10:57 a.m. back to Mr. Bernard Fuchs  
5 stating, "Listen to 1:00 call today if you are able. Would  
6 like your feedback, trying to set up a partners dinner for next  
7 week."

8 Do you see that?

9 A. Yes.

10 Q. And then above that, at 11:06 a.m., Mr. Fuchs responds to  
11 Mr. Landesman stating that he is only available on Monday or  
12 Thursday. Do you see that?

13 A. Yes.

14 Q. And then Mr. Landesman, at 12:57 p.m., one hour later,  
15 sends this e-mail for your attention. Right?

16 A. Yes.

17 Q. And you would be the one who would be attending the  
18 partners dinner that would be set up the next week, right?

19 A. I would think so, yes.

20 Q. And numbers were something that was discussed at the  
21 partners dinner, wasn't it?

22 A. Numbers, meaning liquidity numbers, what they needed, how  
23 much money they needed, that's what I would think.

24 Q. There is nothing about liquidity in this e-mail chain, is  
25 there?

Mcc2Pla5

Bodner - Cross

1 A. I don't know what numbers -- what he means by numbers. I  
2 know what we discussed at the meetings.

3 Q. Numbers, including PPVA's values of its assets, were  
4 routinely discussed at the partner meetings, weren't they?

5 A. No, they were not.

6 MR. LAUER: Objection.

7 A. The positions --

8 THE COURT: Whoa, whoa.

9 THE WITNESS: I'm sorry.

10 THE COURT: So the objection is overruled, but the  
11 answer was, "No, they were not," period. Go on to something  
12 else.

13 BY MR. GLUCK:

14 Q. Mr. Bodner, in addition to soliciting investors at  
15 Platinum, you also had input into Platinum hiring decisions,  
16 didn't you?

17 MR. LAUER: Objection.

18 THE COURT: Yeah. The trouble with that question is  
19 the premise which he has already denied. But if you want to  
20 ask him whether he had any input into Platinum Management  
21 hiring decisions, I will allow it.

22 MR. GLUCK: Rephrase.

23 BY MR. GLUCK:

24 Q. Mr. Bodner, you had input into Platinum hiring decisions,  
25 didn't you?

Mcc2Pla5

Bodner - Cross

1 A. No, I didn't. I did ask Mark as a favor to hire a person  
2 who was in need of a job, but I had no authority whatsoever to  
3 hire anybody in Platinum, to fire anybody in Platinum, or to  
4 just -- there was a lawyer, an ex-lawyer, who was a friend of  
5 mine who was out of a job, and I asked Mark if it is possible  
6 to fit him here in the organization, and I asked him also for a  
7 job for a nephew of mine if he had.

8 Q. You interviewed Mr. Saks, right?

9 A. I did not interview Mr. Saks. Mr. Saks was somebody that  
10 Mr. Nordlicht grew up together. They were childhood friends.  
11 And Mr. Saks is someone that Mark Nordlicht wanted to take over  
12 the fund. He introduced me to him.

13 Q. You interviewed Mr. Landesman.

14 A. I did not interview Mr. Landesman. Mark Nordlicht  
15 introduced him to me being an owner of Platinum Management. He  
16 showed me Mr. Landesman and he asked my opinion what I think  
17 about him. I did not hire Mr. Landesman.

18 Q. Mr. Parson, PX 421, please. Excuse me. One more question.

19 Mr. Kimelman, you didn't want him to be fired, did  
20 you?

21 A. I had no say in Mr. Kimelman being hired or fired.

22 Q. Mr. Parson, Plaintiffs' Exhibit 421, please.

23 This is already in evidence, so I will just ask you,  
24 when Mr. Nordlicht is referring to *shtupping* in people he  
25 didn't want from you, who are you referring to there?

Mcc2Pla5

Bodner - Cross

1 A. He was referring to somebody who my son trained with. His  
2 name is Bobby Orbach, and in his eyes these were the *rachmones*  
3 cases, pity cases that I pushed in, that he should plea hire.  
4 These people needed jobs, and I asked Mr. Nordlicht if he could  
5 put him somewhere in the organization and assist him, to help  
6 him to do something. And that's Bobby, Itchy's partner. Itchy  
7 is my son. Rafi has --

8 Q. Sir, Itchy's partner, you are saying they didn't hire  
9 Itchy, they hired your son's partner?

10 A. My son's partner was a gentleman who was about -- today  
11 about 70 years old. He was training my son. Again, I spoke  
12 about my son having a condition, an OCD condition. Bobby  
13 Orbach was helping him out with this condition.

14 Bobby Orbach was unemployed, and he wanted to have a  
15 position somewhere. So I asked Mark as a favor if it's  
16 possible to hire him, maybe he can be useful somewhere in the  
17 organization. That's what it means, "*shtupping* in people I  
18 don't want." Mark Nordlicht had no need for him, but he felt  
19 that I was pushing him on him because I asked him a favor.

20 Q. And Rafi?

21 A. Rafi has nothing to do with me. Rafi is Murray Huberfeld's  
22 nephew.

23 Q. And Ari Hirt?

24 A. Ari Hirt is like a stepson -- son to Bernard Fuchs.

25 Q. Um-hmm.

Mcc2Pla5

Bodner - Cross

1 Well, you also had --

2 THE COURT: So just so I'm clear, although this is in  
3 evidence, Mr. Bodner, this was an e-mail from Mr. Nordlicht,  
4 not to you, but to Gilad Kalter who was?

5 THE WITNESS: Mr. Nordlicht's brother-in-law.

6 THE COURT: Okay. Did you see this at the time?

7 THE WITNESS: No.

8 THE COURT: So you didn't have a chance to respond to  
9 it, correct?

10 THE WITNESS: No, I did not.

11 THE COURT: And so he is saying, I can't hire a guy  
12 sight unseen, meaning that the hiring decision is his, yes?

13 THE WITNESS: Yes.

14 THE COURT: And then he says "this is the consequence  
15 of David Bodner and others *shtupping* in people I don't want."  
16 Do you see that?

17 THE WITNESS: Yes.

18 THE COURT: *Shtupping* means pushing.

19 THE WITNESS: It means pushing. I worked on his  
20 feelings, that this guy is a *rachmones*, he is a pity, he --

21 THE COURT: So meaning recommending perhaps strongly,  
22 yes?

23 THE WITNESS: Recommending that if he could do me a  
24 favor and please hire this person.

25 THE COURT: All right. Thank you.

Mcc2Pla5

Bodner - Cross

1 Go ahead, counsel.

2 MR. GLUCK: Mr. Parson, you can bring that down but  
3 please bring up PX 555.

4 Q. Do you recall I asked you about Mr. Danny Saks?

5 A. Yes.

6 Q. What was his role at Platinum?

7 A. His role at Platinum was -- I think Mark Nordlicht was  
8 trying to train him in to take over part or all of Mark  
9 Nordlicht's position as the managing partner, one who managed  
10 Platinum PPVA. I think that's what his -- he was supposed to  
11 be. I'm not sure. I think he did work for Platinum for a few  
12 months, and then I think it didn't work out.

13 Q. So senior at Platinum?

14 A. I think he was a senior person, yes.

15 Q. And now he is asking you to meet with him so Danny Saks can  
16 join Beechwood instead. Right?

17 A. I'm not understanding. Danny Saks sent an e-mail to Bodner  
18 and Huberfeld. That was a joint e-mail for myself and  
19 Mr. Huberfeld.

20 Q. She set up yet another -- the e-mail address is  
21 BodnerAng@gmail.com?

22 A. Ange Huberfeld. I don't know. Is it one e-mail, two  
23 e-mails? I don't know what this is.

24 Q. The e-mail address is BodnerAng@gmail.com.

25 People sometimes save e-mail addresses in their phone

Mcc2Pla5

Bodner - Cross

1 in different ways, don't they?

2 A. It could be, yes.

3 Q. And you are David, right?

4 A. I am David, yes.

5 Q. And that's your phone number, right?

6 A. Which is my telephone number?

7 Q. Is that your telephone number, 212?

8 A. That was the number in the office.

9 Q. And David Bodner's e-mail responds at the top, right?

10 A. It looks like Angie was sending me an e-mail.

11 Q. Regarding meeting Danny Saks for Beechwood, right?

12 A. It could be.

13 Q. You know that Ari Hirt was the -- one of the portfolio  
14 managers on Golden Gate Oil, right?

15 A. No, at the time I did not know that.

16 Q. All right. Let's call up PX 987 under the special  
17 exception. Oh. Sorry. Move this into evidence. This is  
18 PX 555.

19 MR. LAUER: We object. No connection to this witness.

20 THE COURT: Yes. Well, on this one I'm going to need  
21 to hear some more from counsel, but fortunately we are ready to  
22 take -- or to give the jury their mid-afternoon break, so we  
23 will give you a 15-minute break at this time while I take this  
24 matter up with counsel.

25 (Continued on next page)

Mcc2Pla5

Bodner - Cross

1 (Jury not present)

2 THE COURT: Please be seated.

3 So this is unlike any other e-mail I think we have  
4 seen in this case, and I'm not quite sure what to make of it.  
5 It starts at the bottom, again, the chronology starts at the  
6 bottom, on November 21, 2014, at 1:23 p.m., Danny Saks to  
7 "BodnerAngHuberfeld," an e-mail address following that that's  
8 been associated previously with Mr. Bodner, but I'm not quite  
9 sure what to make of BodnerAngHuberfeld.

10 That e-mail says, "I spoke to David about meeting some  
11 potential people for Beechwood. How is his schedule on  
12 Tuesday?" and then there is a response from BodnerAngHuberfeld  
13 to it says David Bodner's e-mail, again, without any e-mail  
14 address, at 7:07 p.m., on November 21, and it says, "Not sure  
15 what your planning." I note for the record that "you're" is  
16 spelled here "your" where it should be "you're," but I will  
17 overlook that.

18 But continuing, it says, "But I told him so far you  
19 are available and if can send me the time. Kind regards,  
20 Platinum Partners."

21 So one way, I suppose, of looking at this is there was  
22 an e-mail from Mr. Saks to Mr. Bodner's secretary or assistant,  
23 but I'm just guessing at that, and I'm not sure how the jury  
24 can make head or tails of this. But let me hear from counsel  
25 if he wants to say anything further about this.



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Bodner - Cross

1 MR. GLUCK: Sure. I think this is explainable in a  
2 very simple way. Danny Saks saved as a shorthand name on his  
3 BlackBerry or iPhone BodnerAngHuberfeld as a reference for  
4 BodnerAng@gmail.com. That's something people do. There is a  
5 lot of shorthand. You see how it says --

6 THE COURT: So what does the "Ang" in that mean?

7 MR. GLUCK: That's just how he saved it in his phone.  
8 E-mails typically have the saved name in the beginning,  
9 followed by the actual name at the end. For example, at the  
10 top it says David Bodner's e-mail. I will submit to you that  
11 that's RODB, his other e-mail address, and this foundation was  
12 actually laid by Ms. Albanese.

13 THE COURT: So why is -- if it's Mr. Bodner who is  
14 BodnerAngHuberfeld, then he wouldn't be sending an e-mail to  
15 himself.

16 MR. GLUCK: No. That would be Ms. Albanese sending on  
17 his behalf, which she testified about.

18 THE COURT: Okay. So your interpretation is, which I  
19 think is plausible, that Mr. Saks sends an e-mail to  
20 Mr. Bodner's secretary, and she then sends an e-mail to  
21 Mr. Bodner, and the e-mail from her begins with: Not sure what  
22 you are planning.

23 So what's the relevance?

24 MR. GLUCK: That Mr. Bodner is going to be e-mailing  
25 Danny Saks -- interviewing Danny Saks for a Beechwood position.

Mcc2Pla5

Bodner - Cross

1 THE COURT: No, no. So you are saying that Saks  
2 e-mail is, "I spoke to David about meeting some potential  
3 people for Beechwood." That would be inadmissible hearsay  
4 unless it is in furtherance of the alleged conspiracy, and it's  
5 hard to see how it is in furtherance of the conspiracy. And  
6 then the response, not from Mr. Bodner, but from his secretary,  
7 is "not sure what you are planning."

8 So it is very hard for me to see how, even assuming,  
9 which is not self-evident but I think may be plausible, that  
10 this is an interchange between Mr. Saks and Mr. Bodner's  
11 secretary, I'm not sure why his statement is in furtherance of  
12 the conspiracy and I'm not sure why her statement shows, even  
13 if it wasn't in furtherance of the conspiracy, why there is any  
14 confirmation about what Mr. Bodner allegedly knew or heard or  
15 saw or whatever. It is not that it's impossible, but I think  
16 it requires a great deal of speculation on the part of the  
17 jury, given their total unfamiliarity. What you just told me,  
18 by the way, which makes perfect sense, that some people  
19 sometimes shorthand how they record an e-mail address is not  
20 before the jury. They have never heard that before.

21 MR. GLUCK: The e-mail address point, I believe that  
22 Ms. Albanese testified exactly that that's what --

23 THE COURT: She testified to BodnerAngHuberfeld?

24 MR. GLUCK: Yes.

25 THE COURT: I'm sorry. I forgot that.

Mcc2Pla5

Bodner - Cross

1 MR. GLUCK: That is the foundation.

2 THE COURT: What did she say about it?

3 MR. GLUCK: She said that she established this e-mail  
4 address *inter alia* to keep Mr. Bodner's e-mail off the Platinum  
5 server.

6 MR. LAUER: There is nothing about keeping things off  
7 the server.

8 MR. GLUCK: Ms. Shen, who is nodding her head, is the  
9 one who took the examination, and I also have the recollection.  
10 I'm sure we can look it up in the transcript.

11 THE COURT: I had forgotten that. Given that, I will  
12 receive this.

13 Yes. I'm sorry, Mr. Lauer. Did you want to say  
14 something?

15 MR. LAUER: Not on that.

16 THE COURT: Okay.

17 MR. LAUER: Before the jury comes in.

18 THE COURT: Go ahead. Something else?

19 MR. LAUER: Does your Honor have a view as to how long  
20 you will permit closing arguments?

21 THE COURT: Yes, I do have a view, but let me start  
22 out by asking—and my practice is plaintiff first, defense  
23 second—so how long does plaintiff want?

24 MR. GLUCK: I am signaling to my co-counsel, and we  
25 think we can get this done in about two hours.

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Bodner - Cross

1 THE COURT: Okay. And how about defense counsel?

2 MR. LAUER: I think if he is going to take two hours,  
3 I will need two hours.

4 THE COURT: Okay. So coincidentally that's the  
5 maximum I would allow.

6 MR. LAUER: I'm glad I asked.

7 THE COURT: It's a total meeting of the minds. That  
8 will never happen again.

9 So what that means is that the entirety -- assuming it  
10 is Thursday morning, the entirety of Thursday morning will be  
11 the summations, and then I will give my instructions very early  
12 on Thursday afternoon, right after lunch, and then the jury  
13 will have the -- will start their deliberations. Okay. Let's  
14 take five more minutes.

15 THE WITNESS: Excuse me. Was I asked a question on  
16 this e-mail?

17 THE COURT: I don't know whether you were or not, but  
18 is there something you wanted to say about this e-mail?

19 THE WITNESS: Definitely.

20 THE COURT: So when we come back, when the jury can  
21 hear what you have to say, if no one else puts the question to  
22 you, I will put a question, a very deep and profound question  
23 like: Is there something you wanted to say about this e-mail?

24 THE WITNESS: Thank you.

25 (Recess)

Mcc2Pla5

Bodner - Cross

1 THE DEPUTY CLERK: All rise.

2 May I get the jury?

3 THE COURT: Please.

4 (Jury present)

5 THE DEPUTY CLERK: Jury entering the courtroom.

6 THE COURT: Please be seated.

7 Ladies and gentlemen, after hearing from counsel, I do  
8 receive Exhibit 555, so that can now be shown to the jury.

9 (Plaintiff's Exhibit 555 received in evidence)

10 THE COURT: Mr. Bodner, was there something you wanted  
11 to say about this exhibit.

12 THE WITNESS: Yes. I think when there was a  
13 fallout -- not fallout, when Danny Saks and Mark Nordlicht  
14 didn't make an agreement that Danny should stay at Platinum  
15 after a few months, I spoke to Danny Saks that maybe I would  
16 speak to Mark for you, who was the boss of Beechwood, that  
17 maybe I could speak to him about maybe he would want a job  
18 there, and could be that's why Danny Saks is writing to me that  
19 if I have time to meet with him to discuss calling Mark Feuer  
20 to interview him for a job.

21 THE COURT: All right.

22 Counsel.

23 MR. GLUCK: Thank you.

24 BY MR. GLUCK:

25 Q. Mr. Landesman was brought in to help generate institutional

Mcc2Pla5

Bodner - Cross

1 investors for Platinum, right?

2 A. That and other jobs.

3 Q. And did he have discretion in terms of how he went about  
4 his job?

5 A. I can't tell you. I don't know.

6 Q. Well, would he take any instructions from you?

7 A. From me, definitely not.

8 Q. Definitely not?

9 A. Definitely.

10 Q. Well --

11 A. He might take advice from me if he asked me something, but  
12 instructions, I was not his boss.

13 Q. Mr. Parson, could you please pull up PX 436, which will be  
14 one of those special exception e-mails.

15 (Pause)

16 THE COURT: Go ahead, counsel.

17 MR. GLUCK: We would seek to move it in evidence.

18 MR. LAUER: We would object. We don't think the  
19 exception applies to these people.

20 MR. GLUCK: Concerns the very undisclosed control at  
21 issue.

22 MR. LAUER: We object to that.

23 THE COURT: That's not the issue. The issue is  
24 hearsay. And the defense counsel is saying that it doesn't  
25 fall within the exception to hearsay that you are asserting,

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Bodner - Cross

1 and I think that's correct. So at the end of the day if you  
2 want to make further argument about it, we can discuss it then,  
3 but for now it is not received.

4 BY MR. GLUCK:

5 Q. So you never had the ability to instruct Mr. Landesman to  
6 make investments?

7 A. To make what?

8 Q. To make investor calls.

9 A. I never had the ability to instruct him.

10 MR. GLUCK: So, your Honor, my response to the hearsay  
11 exception is the special exception which we are calling the  
12 special exception, and therefore this is directly in  
13 furtherance of the secret of control that's directly the  
14 subject of the special item.

15 THE COURT: All right. I will tell you what. I hate  
16 to do it, but let's have a sidebar and get this done.

17 (Continued on next page)

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Bodner - Cross

1 (At the sidebar)

2 THE COURT: So the initial message is from Gilad  
3 Kalter who has not been, I think, identified as a coconspirator  
4 at any time, to Mr. Landesman saying are you -- I'm sorry.  
5 Forgive me. There is an earlier message. The first message at  
6 the very bottom, on October 29, 2014, at 1:55, it is from  
7 Mr. Landesman and he writes, "For educational purposes, I have  
8 made all of the pre-new class calls I'm likely to make, unless  
9 the powers that be decide otherwise." Okay.

10 Then the response is from -- is Gilad Kalter a Mr. or  
11 Ms.?

12 MR. HERTZBERG: Mr.

13 THE COURT: From Gilad Kalter saying, "Are you making  
14 more calls?" And Mr. Landesman responds, as I just indicated,  
15 "No, unless Duvid asked me to, which I don't think he is going  
16 to do. As far as I know, which is not very far, we are going  
17 forward with a new PPVA class and will broadly disclose it on  
18 next week's conference call. We can discuss that in pre-call  
19 meeting."

20 So I don't see how this is in furtherance of the  
21 conspiracy. Because Mr. Landesman is saying that he is not  
22 going to make any more calls unless Duvid asked me to, which I  
23 don't think he is going to do. So what's being advanced? I  
24 don't see how the conspiracy is being advanced. It sounds like  
25 it's an e-mail about why Mr. Landesman is not going to do



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Bodner - Cross

1 anything more in the way of making calls.

2 MR. GLUCK: So the response --

3 THE COURT: Please.

4 MR. GLUCK: The response would be the making of calls  
5 themselves is in furtherance of the conspiracy, it's 2014,  
6 post-Black Elk. He is making calls about the Black Elk and  
7 state of mind. Mr. Landesman believes that his job is done.  
8 So unless Mr. Bodner, who is literally the subject of the  
9 secret conspiracy, tells him to, he is done. Now it's his  
10 state of mind that if Bodner was to tell him to, he would have  
11 to continue. That's what we are saying.

12 THE COURT: Well, I think -- well, let me hear from --  
13 so the claim is Mr. Landesman, who is an alleged member of the  
14 conspiracy, shows by the language he uses that he believes that  
15 Bodner has the power to ask him to make more of these investor  
16 calls.

17 MR. LAUER: I think there is a very dangerous  
18 conflation between asking someone to do something and having  
19 power to instruct. So there is an ambiguity right there.

20 Second of all, with all respect for the law of  
21 conspiracy, not everything that innocent people like Gilad  
22 Kalter are engaged in is in furtherance of a conspiracy. The  
23 conspiracy, as I understood it, was to conceal fraudulent  
24 overinflation of valuations. The conspiracy is not all the  
25 innocent people trying to run a business. And I think with

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Bodner - Cross

1 respect to this particular document, it really falls short  
2 and --

3 THE COURT: So what you are saying is that while  
4 arguably if this were otherwise admissible for its truth, it  
5 might be impeachment of Mr. Bodner because it shows that  
6 Mr. Landesman believed that Mr. Bodner had this power. It's  
7 not -- nothing about this is in furtherance of the conspiracy  
8 to overvalue the assets, etc., and so the probative value of  
9 this at best is extremely modest compared to the potential for  
10 misinterpretation. I think that's right, so I will exclude it.

11 (Continued on next page)  
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Bodner - Cross

(In open court)

BY MR. GLUCK:

Q. Mr. Bodner, did Mr. Landesman refer to you and Mr. Huberfeld as the powers that be?

A. No.

Q. Did anyone at Beechwood refer to you and Mr. Huberfeld as the powers that be?

A. Absolutely not.

Q. Um-hmm.

Mr. Nordlicht discussed with you and you with Mr. Nordlicht buying back the excess Black Elk debts with the excess proceeds of the Renaissance sale in selling it?

MR. LAUER: Objection. Testifying.

THE COURT: Well, a little bit, but I think you could rephrase it and ask a proper question along those lines.

BY MR. GLUCK:

Q. Mr. Nordlicht discussed the details of the bond buyback plan with you and you with him, correct?

A. Never happened.

Q. And he specifically discussed with you and you with him using the excess to buy back the Black Elk bonds.

MR. LAUER: Objection.

THE COURT: Overruled.

A. Never happened.

Q. On November 24 or thereabouts you had a conversation with

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Bodner - Cross

1 Mr. Scott Taylor of Beechwood regarding the Black Elk bond  
2 buyback after the consent solicitation, and he had an idea that  
3 would get what you want and what he wanted at the same time.

4 MR. LAUER: Objection. This is more testifying.

5 THE COURT: Well, he has a right to confront the  
6 witness with some specific allegations, but what I think it  
7 needs to be broken into two phases. So the first question  
8 should be, "On November 24 or thereabouts, did you have a  
9 conversation with Mr. Scott Taylor of Beechwood regarding the  
10 Black Elk bond buyback?"

11 THE WITNESS: I do not remember having any discussion  
12 whatsoever with Scott Taylor about Black Elk bonds.

13 THE COURT: And then you can, just so we know where we  
14 are going, at that point if you want to confront him with the  
15 specific allegation, then you can.

16 BY MR. GLUCK:

17 Q. Would you like your memory refreshed or would you like to  
18 see the specific statement?

19 A. 100 percent.

20 Q. Okay. Well, let's -- four exhibits here, let's start with  
21 PX 484.

22 A. Is there anything --

23 THE COURT: Let me caution the witness, don't refer to  
24 anything in this exhibit, which is not in evidence. The only  
25 question before you is, having looked at this, does that

Mcc2Pla5

Bodner - Cross

1 refresh your recollection as to anything about a discussion  
2 that you had, if you did, with Mr. Nordlicht regarding a  
3 buyback of some Black Elk debt? So, in other words, if your  
4 memory is still the same that you did not have that  
5 conversation.

6 THE WITNESS: I don't remember having any  
7 conversation.

8 THE COURT: All right.

9 THE WITNESS: And Dovid could be Dovid Steinberg.

10 THE COURT: So that's the answer. Yeah, that's the  
11 answer.

12 THE WITNESS: I don't remember having any conversation  
13 with Mark Nordlicht about Black Elk bond.

14 THE COURT: The court reporter cannot pick up two  
15 people.

16 THE WITNESS: I do not remember having any discussion  
17 with Mark Nordlicht about Black Elk bonds. Dovid --

18 THE COURT: Okay. You have answered the question.

19 THE WITNESS: Yes.

20 BY MR. GLUCK:

21 Q. Now we will do the same thing with Exhibit 396, and I will  
22 ask you if this exhibit refreshes your recollection that  
23 Mr. Scott Taylor presented an idea that would get what you want  
24 and what he wanted simultaneously regarding the buyback.

25 THE COURT: Is that in evidence?

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Bodner - Cross

1 MR. GLUCK: It is not. But this was --

2 THE COURT: So I want to caution the jury, nothing  
3 that any counsel says in a question is ever in evidence. So if  
4 counsel says, "Take a look at this document in which it says  
5 that you murdered your mother in cold blood," it doesn't mean  
6 that the document says that he murdered his mother in cold  
7 blood. In fact, it is not evidence in any way, shape, or form  
8 because it is not in evidence. So just so do not assume that  
9 when counsel says to a witness does this document here refresh  
10 your recollection that X, Y, Z, that X, Y, Z is what the  
11 document says or let alone that it's true. It may be true. It  
12 may be what the document says. It may not be true. It may not  
13 be what the document says. But you won't know because it is  
14 not in evidence, and you can only deal with what's in evidence.

15 Is this on the screen to the jury?

16 MR. GLUCK: Because this was is in evidence.

17 THE COURT: I thought you just said --

18 MR. GLUCK: A great instruction for the next exhibit.  
19 This particular exhibit, which was called up 396, is in  
20 evidence.

21 THE COURT: All right.

22 MR. GLUCK: The next one shows --

23 THE COURT: Silly me relying on counsel.

24 Okay. Was there some question you wanted to put to  
25 this witness about this document?

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Bodner - Cross

1 BY MR. GLUCK:

2 Q. Mr. Bodner, you knew that PPVA was going to buyback the  
3 Black Elk bonds.

4 A. No, I did not.

5 Q. You knew that those bonds were rendered impaired after the  
6 Renaissance sale.

7 A. No, I did not.

8 Q. Scott Taylor came up with an idea that would get both what  
9 you wanted and what he wanted at the same time, didn't he?

10 A. I do not know what was in Scott Taylor's mind when he wrote  
11 this e-mail, and I do not have any recollection whatsoever of a  
12 Renaissance sale or Black Elk bonds. I was not involved in any  
13 of that and I do not know what this is talking about.

14 Q. You communicated your wants concerning the Black Elk bond  
15 buyback to Mr. Taylor, didn't you?

16 MR. LAUER: Objection.

17 THE COURT: Sustained.

18 BY MR. GLUCK:

19 Q. The next one, PX 486, I will ask you if this refreshes your  
20 recollection as to whether there are those at Beechwood who  
21 also called you and Mr. Huberfeld the powers that be.

22 A. Where am I the powers --

23 THE COURT: You are not.

24 The only question is, having looked at this, does that  
25 refresh your recollection regarding anything you were just

Mcc2Pla5

Bodner - Cross

1 asked about? Yes or no.

2 THE WITNESS: No, absolutely not.

3 THE COURT: Okay. That's the answer.

4 BY MR. GLUCK:

5 Q. Mr. Bodner, you participated in the formation and the  
6 capitalization of Beechwood, correct?

7 A. Yes, I did.

8 Q. Did you capitalize Beechwood with Platinum Limited  
9 Partnership interests?

10 A. Part of the capital that went into Beechwood was White  
11 Star, which was a partnership between my wife and Murray  
12 Huberfeld's wife of \$20 million was put up as collateral. That  
13 was part of the collateral that was put up.

14 Besides that, my children owned shares in a public  
15 company that had a value of about, if I'm not mistaken, around  
16 \$10, 12 million, and that was also put up as collateral.

17 Q. So the capitalization put up by yourself and Mr. Huberfeld  
18 were the Platinum Limited Partnership you were awarded and your  
19 children's interest named Crius?

20 A. Crius is my children's interest in -- that was the public  
21 company; mine and Mr. Huberfeld's shares, which I think had a  
22 market value of between 20 and \$25 million if I'm not mistaken.

23 Q. So the capitalization consisted of your and Mr. Huberfeld's  
24 Platinum LP interest awarded as incentive fees and the Crius  
25 interests, right?



Mcc2Pla5

Bodner - Cross

1 A. No, Platinum that we put up was not incentive fees. It was  
2 our investment when we started Platinum, White Star invested.  
3 That was part of the seed money that we put up, and that was  
4 put up. It was not incentive fees that was given to us.

5 Q. You are suggesting that the White Star interests were  
6 something other than Platinum Partners Value Arbitrage Fund LP  
7 interests?

8 A. You just said incentive fees if I'm not mistaken. Maybe I  
9 heard wrong. I'm sorry.

10 Q. You were paid incentive fees in the form of PPVA LP  
11 interest over the years in addition to cash, correct?

12 A. I'm sorry. I'm not following what you are saying.

13 Q. You were paid incentive fees in the form of LP interests,  
14 right?

15 A. I was paid incentive fees as being an owner of Platinum  
16 Management.

17 Q. And some of those incentive fees came in cash and some of  
18 them came in the form of LP interests in PPVA, right?

19 A. I don't think so. I think at the end when there is no cash  
20 to pay it, when Mark stopped the withdrawals in 2014, that's --  
21 I could just tell you what I remember, that's when I think it  
22 became not cash, it became, you know, accrued interest, then it  
23 became an LP in the fund. But before that it was something  
24 that we were able to take out every year.

25 Q. That's the best of your recollection?

Mcc2Pla5

Bodner - Cross

1 A. That's the best of my recollection, yes.

2 Q. Mr. Propper was also a founding member of Beechwood,  
3 correct?

4 A. I don't know.

5 Q. Do you recall meeting with Mr. Propper, Mr. Huberfeld, and  
6 Mr. Levy regarding the formation of Beechwood?

7 A. No, I recall meeting Mr. Propper, as I testified, about  
8 becoming, the takeover management of Platinum from Mark  
9 Nordlicht.

10 Q. In 2013?

11 A. I don't remember the date, but that's what I meant.

12 Q. Let's call up PX 444. And this is definitely under that  
13 special exception.

14 MR. LAUER: Is this in evidence?

15 MR. GLUCK: Not yet.

16 THE WITNESS: I did not go to this meeting.

17 (Continued on next page)

MCCCpla6

Bodner - Cross

1 BY MR. GLUCK:

2 Q. I'm not sure if that's relevant.

3 MR. GLUCK: We move this into evidence.

4 THE COURT: Yes, I was waiting for you --

5 MR. GLUCK: We move this into evidence.

6 MR. LAUER: We object. 401. It's also 801.

7 THE COURT: Overruled. Received.

8 (Plaintiff's Exhibit 444 received in evidence)

9 Q. Did you attend a meeting with Mr. Kerry Propper and  
10 Mr. Huberfeld regarding what became Beechwood in August of --

11 MR. LAUER: Objection to the testifying.

12 THE COURT: So, Mr. Nordlicht, at 8:48 a.m. on  
13 October 8th, 2013, writes to Mr. Levy, can you schedule meeting  
14 between Kerry and his guy and M and D.

15 Did you have an understanding of what he meant by  
16 M and D?

17 THE WITNESS: Is that the question to me?

18 THE COURT: Yes.

19 THE WITNESS: Yes.

20 THE COURT: What?

21 THE WITNESS: That would be Murray and David.

22 THE COURT: In other words, Murray and you?

23 THE WITNESS: Yes.

24 THE COURT: To hear this deal. \$200 million line. I  
25 don't want anyone to have taynas. What does that mean?

MCCCpla6

Bodner - Cross

1 THE WITNESS: It's a Jewish word that nobody should  
2 have come back later and say -- Eliot, how you say?

3 MR. LAUER: Complaints.

4 THE WITNESS: Nobody should have complaints about it.

5 THE COURT: Got it.

6 THE WITNESS: I never attended this meeting. It looks  
7 like I was invited to it. As I testified earlier, the only  
8 thing I knew about Beechwood was what Murray Huberfeld told me  
9 about the business. I had no idea about Kerry Propper. I have  
10 no idea if he was a partner or what this meeting was about.  
11 Murray Huberfeld sold me on Beechwood, it was a reinsurer, and  
12 anything the reinsurer makes above 5 percent is our profit and  
13 it's a great business, and Mark Feuer and Scott Taylor are  
14 running it, and they have sterling reputations. That was my --

15 THE COURT: Okay. That's fine.

16 Go ahead. Put another question, counsel.

17 BY MR. GLUCK:

18 Q. Yes or no, was Mr. Proper granted an interest in Beechwood?

19 A. I don't know.

20 Q. You don't know?

21 A. No, I don't.

22 Q. You stated that Mr. Feuer was the boss of Beechwood; is  
23 that fair?

24 A. Yes, and Mr. Scott Taylor, that was my knowledge.

25 Q. You would routinely meet with Mr. Feuer?

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Bodner - Cross

1 A. No, I met with Mr. Feuer very unoften. I went to Beechwood  
2 very unoften.

3 MR. GLUCK: Mr. Parson, Plaintiffs' Exhibit 418,  
4 please.

5 Move this into evidence.

6 MR. LAUER: Can we see what it is.

7 MR. GLUCK: It is a calendar invite.

8 MR. LAUER: Is this the entire document?

9 MR. GLUCK: This is what all calendar invites look  
10 like.

11 MR. LAUER: We object. No idea what it is.

12 MR. GLUCK: May I lay some foundation?

13 THE COURT: Yes.

14 BY MR. GLUCK:

15 Q. You agreed to meet Mr. Feuer on a weekly basis, which  
16 meetings commenced with this calendar invite, which was  
17 accepted; right?

18 A. Totally false. I never went to Beechwood on a weekly  
19 basis. I never went to Beechwood on a monthly basis. I was  
20 very, very unoften at Beechwood headquarters. I did not meet  
21 with Mr. Feuer often. Once in a while, I met him. He once in  
22 a while came up to Platinum, but I never had weekly meetings  
23 with Mr. Feuer. I don't know. Maybe this is --

24 THE COURT: You've answered the question.

25 Q. I'd like to be very clear in your testimony. You never had

MCCCpla6

Bodner - Cross

1 meetings with Mr. Feuer?

2 A. I did not say that.

3 MR. LAUER: Objection.

4 Q. How many meetings with Mr. Feuer did you have?

5 A. Very few. Definitely not weekly and not monthly.

6 Q. You never met with Mr. Kerry Propper about Beechwood?

7 A. No, I never met Kerry Propper about Platinum, as I  
8 testified.

9 MR. GLUCK: Take that in reverse order. Could you  
10 bring up 259, please.

11 Let's bring up PX 384. This is in evidence.

12 Q. Now, your testimony is that at this time, Mr. Taylor was  
13 explaining what reinsurance was to you as opposed to taking you  
14 through the limits of what can be invested in Platinum debt in  
15 his office?

16 MR. LAUER: Objection to the form.

17 Q. Do you recall --

18 THE COURT: Rephrase.

19 Q. Do you recall testifying earlier that your understanding of  
20 this meeting was that Mr. Taylor was explaining what  
21 reinsurance was to you?

22 MR. LAUER: Objection.

23 A. No, I did not testify to that. I testified that my son was  
24 out there doing deals and he was looking for investors, and he  
25 asked me to find out what the limits are on Beechwood, what

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Bodner - Cross

1 Beechwood could invest in. So Scott Taylor took me through  
2 CNO's limits, what they're allowed to invest in and what  
3 they're not allowed to invest in. As I testified earlier,  
4 Murray Huberfeld is the one who explained me what a reinsurer  
5 is and how we make money, not Scott Taylor. Scott Taylor took  
6 me through the limits of what you're allowed to invest in and  
7 what you're not.

8 Q. Before we come off this, you knew that Beechwood was going  
9 to be acquiring bad paper from Platinum, didn't you?

10 A. No, I did not know that.

11 MR. GLUCK: PX 1235, please.

12 Seek to admit this into evidence.

13 MR. LAUER: We object. There's a top and there's a  
14 bottom.

15 MR. GLUCK: It's on both.

16 THE COURT: Sustained.

17 MR. GLUCK: Take it down, please.

18 Q. You knew that the PPVA operating assets were incapable of  
19 making their own interest payments to Beechwood, and therefore  
20 PPVA had to pay them; right?

21 MR. LAUER: Form.

22 THE COURT: Overruled.

23 A. Excuse me, what's the question?

24 Q. You knew that the PPVA operating companies were not capable  
25 of making their own interest payments to Beechwood, so PPVA had

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Bodner - Cross

1 to pay them instead; right?

2 A. I don't recall. I don't recall knowing that, no.

3 Q. You don't recall?

4 A. I don't -- I wasn't involved to know who paid the interest  
5 payments.

6 Q. You and Murray Huberfeld used to speak all the time; right?

7 A. Murray Huberfeld and me spoke all the time, but he didn't  
8 speak about the payments. He didn't even speak to me about  
9 COBA or his notes with Jonah Rechnitz. He didn't speak to me  
10 about a lot of things. We were friends. We spoke about a lot  
11 of things besides business and anything that he felt was  
12 important in business, in our private deals, we spoke together.  
13 When he moved to Beechwood, we rarely spoke about Beechwood's  
14 business.

15 MR. GLUCK: Mr. Parson, please call PX 459.

16 We seek to move into evidence.

17 MR. LAUER: Objection.

18 MR. GLUCK: It's in already.

19 MR. LAUER: Could be in. It is in.

20 THE COURT: All right. So go ahead.

21 Q. This is an email of Mr. Huberfeld forwarding you the very  
22 interest payments we were just talking about, isn't it?

23 A. To me, this looks like interest payments that were paid  
24 from these companies to Beechwood. And if it was forwarded to  
25 me, I'm not sure. Could be many reasons why they send it to



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Bodner - Cross

1 Angie.

2 Q. Why you would send this to Angela?

3 A. Yes, Angela was his secretary. I have no idea -- it  
4 doesn't say that he told Angie to print it out and read it to  
5 me or give it to me. I don't know. I can't answer for  
6 Mr. Huberfeld why he sent it.

7 Q. You knew that PPVA was making these payments to Beechwood;  
8 right?

9 A. I testified that I did not know that PPVA was making  
10 payments to Beechwood.

11 Q. And you knew that these entities, Golden Gate Oil, others,  
12 they couldn't make their own interest payments; right?

13 MR. LAUER: Objection.

14 A. No.

15 THE COURT: Sustained.

16 Q. Did you have a phone number at Beechwood?

17 A. No.

18 Q. Because you went there so rarely?

19 A. I never had a phone number at my office at Beechwood. I  
20 have nothing at Beechwood.

21 MR. GLUCK: PX 501, please, Mr. Parson.

22 We seek to move it into evidence.

23 MR. LAUER: We have no objection.

24 THE COURT: Received.

25 (Plaintiff's Exhibit 501 received in evidence)

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Bodner - Cross

1 Q. You did have a telephone number at Beechwood, didn't you?

2 A. Not that I know of. I don't know if David B. direct is me  
3 and this is the first time I'm seeing this phone number. I did  
4 have a phone number at Platinum.

5 Q. And there was a direction that unless it was a trusted  
6 caller, calls for you and Mr. Huberfeld would need to be  
7 transferred to Alexis Northwood?

8 A. Alexis Northwood was Murray's secretary at Beechwood. I  
9 don't remember anything about me having a number there, I  
10 didn't have an office at Beechwood. I very, very rarely went  
11 up to Beechwood. You could count on your hand how many times I  
12 went to Beechwood. My office was at Platinum. I had a  
13 secretary called Angela Albanese. She took my calls. I have  
14 no idea what this is about, if the David B. is me. I know  
15 Alexis Northwood was Murray's secretary.

16 Q. And Ms. Albanese forwarded this to you to your personal  
17 email so that you would know that this directive had been  
18 implemented?

19 A. I don't know anything about this directive.

20 Q. You got the email; right?

21 A. It looks like she sent me this email, but I have no idea  
22 what this is about. Why would somebody call me at Beechwood if  
23 I was sitting at Platinum?

24 Q. Because you didn't want anybody to know that you were  
25 working at Beechwood.

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Bodner - Cross

1 MR. LAUER: Objection.

2 THE COURT: Sustained. That was not a question.

3 MR. GLUCK: One more and then I think we'll try a  
4 chart, I'll ask for a sidebar.

5 PX 380, please, which is already in evidence.

6 Q. Ms. Albanese, did she have an office at Beechwood?

7 A. No.

8 Q. She only had an office in Platinum?

9 A. Yes.

10 Q. She testified that she sent this email to you in order to  
11 scare you; right?

12 MR. GLUCK: Excuse me. Withdrawn.

13 Q. Are you aware that she sent you this email in order to  
14 scare you?

15 A. I'll tell you the truth, I saw this email the first time  
16 when my lawyers showed it to me and they asked me what this is  
17 about. I couldn't figure it out, but then I remember that  
18 Angie was threatening because we didn't give her enough of a  
19 severance pay. So she threatened that she's going to do  
20 something. And, for some reason, this email, I couldn't figure  
21 out what this is all about. David Bodner, to David Bodner,  
22 from -- I didn't understand the whole email until I told them I  
23 think this is what Angie sent when she wanted a bigger raise  
24 and a salary. What it's about, I have no clue what she wanted  
25 here.

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Bodner - Cross

1 Q. This was part of her attempt to get a better severance;  
2 right?

3 A. This was part of her attempt. She spoke to me, that the  
4 severance is not enough. I don't know why she sent this email  
5 to Harvey Wreblowsky, it says. I think I tried to send it to  
6 Harvey Wreblowsky at the end. I'm not sure. I'm just not sure  
7 about this. I definitely did not write this email and I had  
8 nothing to do with this email.

9 Q. She wrote this email; right?

10 A. She wrote the email without any permission from me. I did  
11 not ask her to write this email. And I can't answer for Angie  
12 Albanese what her intentions were exactly.

13 Q. But DavidBodner18@gmail.com, that's one of her email  
14 addresses?

15 A. Yes.

16 She got into it and used it without my permission. I  
17 did not write this email and I have no idea what was running  
18 through her mind when she wrote the email. And I don't know  
19 what the email's about. I don't know who Ed Bonach is. I  
20 don't know who she's sending this to. It says from me to me.  
21 I'm not sure what she wanted here.

22 Q. You saw it, though; right?

23 A. I saw it when the case started, my lawyers showed it to me.

24 Q. And you might have tried to forward this to Harvey  
25 Wreblowsky and messed it up and then you typed in

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Bodner - Cross

1 H. Wreblowsky; right?

2 A. I don't remember. I might have. I don't remember.

3 Why would it mess up if I did type it in? Why  
4 wouldn't it go to Harvey Wreblowsky?

5 Q. And then you did send it to Mr. Wreblowsky's in-house  
6 counsel; right?

7 A. I don't know. I can't figure out this whole email from the  
8 beginning to the end because everything is David Bodner.

9 Q. Without getting into all the details, why would  
10 Ms. Albanese be threatening you with this Beechwood revelation  
11 to try to get greater severance at Platinum?

12 A. I don't think she was threatening me. We had a discussion  
13 and I had to speak to Mark Nordlicht, because he was the boss,  
14 and I spoke to Mark Nordlicht that she wants more money. Mark  
15 Nordlicht didn't want to give her more money. And then, all of  
16 you a sudden, I never saw this email till the case started and  
17 my lawyers showed it to me. And I told my lawyer, I have  
18 nothing to do with this email, I have no idea what this is  
19 about.

20 Q. No idea?

21 A. I had no idea at the time what this email was about.

22 Q. She was threatening you to get higher severance; right?

23 A. That's what -- are you telling me that?

24 MR. GLUCK: Okay. So let's go to PX 425.

25 Q. It's your phone number, right, the top of the page?

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Bodner - Cross

1 A. No, that's not my phone number.

2 Q. Sorry. That's her phone number; right?

3 A. I have no idea. My phone number is a 646 number.

4 Q. She send you this text message?

5 A. I don't remember getting it. It sounds like --

6 THE COURT: You've answered the question.

7 Q. You produced this to PPVA as part of discovery; right?

8 A. I produced it to PPVA?

9 Q. Right. So this was sent to you; right?

10 A. I don't know. I have no idea if this was sent to me.

11 Where does it say it was sent to me?

12 THE COURT: Okay. The chances that this will be  
13 received in evidence is approximately zero. So you might want  
14 to move on.

15 MR. GLUCK: So why don't we try then, if I may  
16 approach sidebar regarding particular summaries.

17 THE COURT: So you know what, this really hurts,  
18 because I'm going to give you your time to leave eight minutes  
19 early, oh, my god. I could see juror No. 3 in particular is  
20 devastated. But, we do have a full day tomorrow. So we'll see  
21 you at 9:30 tomorrow. Have a good evening.

22 (Continued on next page)

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Bodner - Cross

1 (Jury not present)

2 THE COURT: First, with respect to exhibit 425, all I  
3 see is a -- it says from 516-458-6739. I don't remember any  
4 testimony linking that to Mr. Bodner.

5 MR. GLUCK: It was a text message produced by  
6 Mr. Bodner from his cellphone.

7 THE COURT: I'm sorry?

8 MR. GLUCK: This was a text message produced by  
9 Mr. Bodner from his cellphone.

10 THE COURT: So I will repeat my question. I don't  
11 remember any evidence in the record about that. If there is,  
12 please remind me when it came up.

13 MR. GLUCK: This is the evidence and it's the Bates  
14 stamp at the bottom of the email, Bodner00039 --

15 THE COURT: No. The fact that it was produced by  
16 Mr. Bodner doesn't mean it's admissible against Mr. Bodner.  
17 People can produce in discovery all sorts of stuff because,  
18 typically, discovery requests are quite broad and they have a  
19 choice, they can either run up legal fees by fighting about it  
20 or they can produce it. I'm talking about the evidence before  
21 the jury in this case right now shows no basis for the  
22 assertion you just made. If you want to find something in the  
23 record that I've forgotten about, I'm happy to reconsider.

24 MR. GLUCK: Except the Court's position, we would need  
25 to lay foundation for this particular email, but given the

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Bodner - Cross

1 Court's statement that even if there were such foundation that  
2 the email would not be admitted, which is principally to  
3 impeach the witness's credibility that he didn't know anything  
4 about the threatening email that we had just looked at --

5 THE COURT: This exhibit may well be admissible if it  
6 comes from Mr. Bodner.

7 MR. GLUCK: What I would need to do, I can show the  
8 Court two sets of depositions, one from Mr. Bodner and one from  
9 Ms. Albanese. Ms. Albanese was questioned about this  
10 particular text message at length.

11 THE COURT: If there's a deposition from Mr. Bodner in  
12 which he says this is my email, then, of course, you can  
13 confront him in front of the jury with that.

14 MR. GLUCK: There's a deposition from his --

15 THE COURT: And I might very well admit it. So that's  
16 fine. I just can't admit it on the current state of the  
17 record.

18 MR. GLUCK: I think the accurate thing to say --

19 THE COURT: So you have your guidance for tomorrow.

20 Second, Mr. Bodner reminded me that he has to be out  
21 tomorrow morning. From when to when?

22 THE WITNESS: From 8 o'clock in the morning -- I would  
23 get here between probably 11:00, 11:30, depending on traffic.

24 THE COURT: So we have Mr. Quintero. So just have him  
25 ready to go at 9:30 and we'll take him and then we'll go back



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Bodner - Cross

1 to Mr. Bodner when he arrives.

2 You're going for a bris?

3 THE WITNESS: Yeah, grandchild.

4 THE COURT: I will not burden the record with the  
5 50 million jokes that can be made about bris. Very good.

6 Anything else we need to take up today?

7 MR. GLUCK: There is one, your Honor. While this  
8 testimony is fresh in the head, we have about four summary  
9 exhibits concerning, one, Bodner meetings with only Platinum  
10 employees between 2010 and 2016, 100 such meetings. We have a  
11 second summary exhibit, 68 meetings with Platinum PPVA  
12 investors between 2010 and 2016. Then we have 106 meetings  
13 regarding Platinum asset companies, potential companies, 2010  
14 to 2016.

15 THE COURT: These are based on what?

16 MR. GLUCK: These are based on a combination of  
17 calendar invites accepted, just like we saw, emails from  
18 Ms. Albanese showing the schedule and the sort. So we have  
19 CTRL numbers next to each and every meeting --

20 THE COURT: So, normally, I think you would be calling  
21 a witness to put these in, but if you're not, I somehow suspect  
22 that Mr. Bodner is not in the position to affirm --

23 MR. GLUCK: We suspect the same thing. Now, this  
24 arose actually during the Albanese testimony, which was  
25 unfortunately cut off due to her illness. She testified that

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Bodner - Cross

1 she made Mr. Bodner's calendar, set Mr. Bodner's calendar,  
2 accepted his outlook --

3 THE COURT: Here's what I would say, I think we need  
4 to have a discussion about those exhibits, their bases and  
5 their admissibility, and the good time to do it would be early  
6 tomorrow because Mr. Bodner won't be here, so his testimony  
7 won't be affected by it. So congratulations. Let's get  
8 together at 9:10 tomorrow morning and we'll go over those.

9 Mr. Lauer.

10 MR. LAUER: I'm just getting a little concerned about  
11 the timing. We tried to be as efficient as possible with  
12 Mr. Bodner. We all accept the Court's advice that, come  
13 Wednesday afternoon, evidence ends. We have a number of  
14 substantive witnesses and --

15 THE COURT: I'm going to ask plaintiffs' counsel to  
16 give me, first thing tomorrow at 9:10 before we get into our  
17 discussion of exhibits, what will now be a binding  
18 representation of how much more he'll be on cross.

19 MR. GLUCK: Very good.

20 THE COURT: Anything else we need to discuss? Okay.

21 You're excused. We'll see you tomorrow.

22 THE WITNESS: These meetings that I had, we went over  
23 them, he showed the whole list today and I explained that a lot  
24 was charity meetings and met with employees of Platinum, a few  
25 of them about different deals. One was a lawyer who helped me

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Bodner - Cross

1 out with the deals that I was doing --

2 THE COURT: So that is for your -- I don't know  
3 whether I'll admit these exhibits or not, but what you're  
4 telling me is that the meetings took place, but they had to do  
5 with other things. That's something that your counsel can  
6 bring out on redirect, but it's not by itself a reason not to  
7 admit these exhibits.

8 THE WITNESS: I just wanted to --

9 THE COURT: Thank you for clearing that with me.

10 Very good. We'll see you all tomorrow.

11 (Adjourned to December 13, 2022 at 9:10 a.m.)

12 \* \* \*

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